VOL

III

VOLUME III

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 77

NATIONAL LABOR RELATIONS BOARD, PETITIONER

vs.

WALTON MANUFACTURING COMPANY, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 6, 1961
CERTIORARI GRANTED OCTOBER 9, 1961

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Appendix to respondents' brief
Filed August 22, 1960

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT.

No. 18,198.

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

vs.

WALTON MANUFACTURING COMPANY AND LOGANVILLE PANTS COMPANY,
Respondents.

PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD, SITTING AT WASHINGTON, D. C.

* * * * * * *

[38]* Mr. Thompson: Mr. Examiner, I'm a little bit confused here, that some of this stipulation was read and either my memory has completely failed me, or some of it was just recited by Mr. Joy. Now, I agreed to the written document that he is reading from and I also agreed that the stipulation that—to stipulate that Mr. Hughley was a super-

*Refers to page of the typewritten transcript of the testimony.

visor for his Loganville Pants Company. It was a paragraph that he recited there concerning Hughley working one place up through some date and then another place that I am not prepared to stipulate on because I am not that familiar with the dates at this time. The other portions I can stipulate.

Mr. Joy: I'm sorry, Bob, I understood you to say you were agreeing that he was supervisor at Walton and then at Loganville.

Mr. Thompson: I will agree with that, but I can't stipulate the dates you put in there at this time. In the first place, we don't think they are right; and the second place, we don't have access [39] right at the moment to the exact dates. This is the first I have heard of a date. You just all of a sudden in the middle of the stipulation put in a date which I didn't know was in there. Was it on that written sheet that you are reading from?

Mr. Joy: Not Mr. Hughley and Mr. Prosterman, no.

Mr. Thompson: That is the portion, and I don't want to be making an issue of it, I just merely cannot afford to stipulate something I'm not aware of.

Trial Examiner: I just want the stipulation to be exact so there will be no question about what is stipulated.

* * * * * * *

[43] I. S. PROSTERMAN.

* * * * * * *

[54] *Voir Dire Examination.*

Q. (By Mr. Thompson) Mr. Prosterman, are there other departments at this plant that you do not have the responsibility for?

A. Yes.

Q. What are they?

A. The shipping department, the office management and administrative department, the cutting department insofar as the production of the cutting department goes. There is another phase that I didn't mention, the control that I have over the patterns of the company. I make the patterns—designer, in other words.

Mr. Sheinkman: I don't quite understand that last part of [55] the answer.

Would you read that last?

Trial Examiner: He said he cuts the pattern; he designs the patterns.

Mr. Sheinkman: I see. Thank you.

Q. (By Mr. Thompson) Mr. Prosterman, what phases of this operation do you have charge of?

A. The designing the patterns, the quality of the cutting department but not the production, and in the production of the entire factory.

Q. What does that consist of? What do you mean by the production? What phases does that consist of in the manufacture?

A. Every phase included in the production of the manufacturing department.

Q. You have some general operations there, such as sewing, do you not?

A. Sewing operations, pressing operations.

Q. That's about it, isn't it, generally speaking?

A. Whatever it takes to make the garment from beginning to end.

Trial Examiner: Are these garments made from sample? I mean, are these garments sold from samples?

The Witness: They are sewed from patterns.

Trial Examiner: Are these patterns designed by you for a view to getting acceptance by trade, is that it?

[56] The Witness: Exactly.

Trial Examiner: And then the salesmen sell from the original samples which you produce, is that it; then the production comes in?

The Witness: Correct.

Trial Examiner: So that you are the one who originates the type of garment which is prepared at this plant? I just want to get that straight.

The Witness: That is right.

Trial Examiner: And you make the garment that the salesmen go out to sell?

The Witness: That is right.

Trial Examiner: And when they sell them, you manufacture them?

The Witness: That is correct. I am what you might term technically designer-manufacturer.

Trial Examiner: Any further questions?

Mr. Thompson: Yes, sir.

Q. (By Mr. Thompson) Mr. Harry Scharff holds what position with the company?

A. He is the president of the company, I believe.

Q. Does he maintain an office there at the plant?

A. Yes.

Q. And there is another Mr. Scharff—

A. Arthur Scharff.

[57] Q. What is his title?

A. I don't know his exact title.

Q. He is an official of the company?

A. Right.

Q. Is he located there at the plant?

A. That is right.

Q. Are they immediately above you?

A. That is right.

Q. Do you get your—any directions from them at all?

A. Yes, from Mr. Arthur Scharff.

Q. Are they there practically on a daily basis?

A. Yes, practically.

Mr. Thompson: If Your Honor please, I submit that this man is a superintendent like he says in a plant where you've got—it is a one-plant operation. The president and the vice-president are there. He doesn't even have charge of the entire production operation. The cutting room is handled separately; the shipping room is handled separately. He makes patterns; he makes designs; and then he supervises the cutting—not the cutting—the sewing, the pressing of these garments that are made at this plant. Those facts, and we've got the details of exactly what he does, do not make him out a managing agent of the company. He is not such an agent as contemplated in the Rule there. He is certainly not an officer or owner of the company. He is simply a superintendent or a supervisor as the Act [58] contemplates, and I think we have stipulated that. He certainly has no place of business that he is managing. He doesn't even have a separate operation that he manages.

Trial Examiner: To what extent are you supervised by Mr. Arthur Scharff?

The Witness: Well, first of all, designing it; he tells me what he believes will be required for sale to our customers—I have nothing to do with the sales department either—at which time I try to prepare the samples and patterns in accordance with his desires, that is, from the designing end. From the production end, he tells me how many garments we contemplate selling and what we should be prepared to produce, and advises me as to the number of garments that will be required and at what period of time they will be required. From that point on I am required to set the shop accordingly, set our production requirements accordingly. He also supervises me from the standpoint of quality of the finished product. Anything that comes to his attention that he believes is wrong with the finished product, he advises me of that. I take steps to correct it. He advises me of any complaints received from customers regarding the product.

That is the extent of my supervision. I believe I have covered everything.

* * * * * * *

[62] Q. What happened with garments that were manufactured or produced by an operator and the quality was not up to standard? What was done about the garment?

A. Are you talking about from the standpoint of her particular operation?

Q. Yes, sir.

A. In many cases, we busheled, or repaired, the garment; and in many cases, we allowed it to pass.

Q. Who did the repairing?

A. We have various repair people in the factory. I can't tell you exactly.

Q. Where did you inform her—make those statements to her that her work was not sufficient as to quality?

A. Where?

Q. Where.

A. At her machine.

* * * * * * *

[63] Q. (By Mr. Joy) Now, you said you did speak to her several times about it?

A. Yes, sir.

Q. About when?

A. About when?

Q. Yes.

A. Well, I would say from the time—from the period of approximately six weeks prior to the time of her discharge up until the time of her discharge, two or three times. Most of the time I just informed the supervisor to discuss her work with her and some times I discussed her work with her myself.

Trial Examiner: Was any record made of these admonitions?

The Witness: No.

* * * * * * *

[68] GARVIN BIGGS.

* * * * * * *

[87] Q. (By Mr. Joy) Did you ever receive written notification from any employees of Walton Manufacturing Company that they wished to withdraw from the Union?

A. We received a letter—or rather, it was placed in our office in Atlanta—from some employees stating that they wished [88] to withdraw from the Union. I received

the letter quite some time after it was supposedly placed in our office.

Mr. Joy: I ask the reporter to mark for identification as General Counsel's Exhibit 6-A for identification a letter addressed "To Whom it May Concern," and as 6-B an envelope addressed, "Georgia State Office, 94 Merrietts Avenue, N. E., Atlanta, Georgia."

(Thereupon the documents above referred to were marked General Counsel's Exhibits Nos. 6-A and 6-B for identification.)

Q. (By Mr. Joy) I show you General Counsel's Exhibits 6-A and 6-B for identification and ask if that is the letter you received and the envelope in which you received it?

A. Yes, sir.

Mr. Joy: Your Honor, I offer into evidence General Counsel's Exhibits 6-A and 6-B.

* * * * * * *

(The documents heretofore marked General Counsel's Exhibits Nos. 6-A and 6-B for identification were received in evidence.)

* * * * * * *

[89] Q. (By Mr. Thompson) Mr. Biggs, was there any other paid organizers working on this campaign of Walton Manufacturing Company other than the ones that you have named?

A. Other than the ones that I named?

Q. Yes, sir.

A. No. No one assigned to the campaign except the people that I named.

Q. You state no one was assigned to the campaign; did anybody, any other paid organizers, do any work in the campaign?

A. No, sir.

Q. Were you and these other four organizers staying here in this area while this campaign was going on, or did you stay in a hotel or a motel, or something, while this was going on?

A Part of the time.

Q. Where did you stay the rest of the time?

A. At our respective homes.

Q. Where are your respective homes?

[90] A. My home is in Greenville, South Carolina.

Q. Where do these other people live?

A. Mrs. Penny is in Cordele, Georgia.

Q. Sarah Broom?

A. Sarah Broom is from Greenville, South Carolina.

Q. Mrs. Rachel Barnes?

A. Mrs. Barnes is from North Carolina.

Q. What place in North Carolina?

A. Lexington.

Q. Where does Mr. Eiger live?

A. Mr. Eiger's home is in New York.

Q. What part of New York?

A. New York City.

Q. Does this office that you are working for maintain an office in the State of Georgia?

• • • • • • •

[92] Trial Examiner: You've got an answer to that. Now, you are asking him another question as to whether or not they maintain an office in the State of Georgia.

Mr. Thompson: Yes, sir.

Trial Examiner: I can't see the materiality of that.

Mr. Thompson: The materiality does exist. If they've got an office in Atlanta, Georgia, where they have organizers, it bears on this issue that I am referring to, that they brought organizers in from all over the country when they had an office right here. They could organize this plant, if that is all they are interested in doing.

Trial Examiner: I will allow your question.

The Witness: Would you restate the question?

Q. (By Mr. Thompson) Does this organization that you are em- [93] ployed by have an office in the State of Georgia?

• • • • • • •

Now, does the Amalgamated Clothing Workers of America have an office in Georgia?

The Witness: Yes.

Trial Examiner: In Atlanta?

The Witness: Yes.

Trial Examiner: Now, you may continue.

Mr. Thompson: Thank you, sir.

Q. (By Mr. Thompson) Did you write this notice which has been [94] identified as General Counsel's Exhibit Number 4?

A. Sir?

Trial Examiner: Did you write this notice which is General Counsel's Exhibit 4, this notice.

The Witness: Yes; I assisted in writing it.

Q. (By Mr. Thompson) You assisted in writing it?

A. Yes.

Q. Who else contributed to it?

A. The staff named at the bottom of the page.

Q. Anybody else?

A. In composing the letter?

Q. Did anybody else contribute towards it?

A. No.

Trial Examiner: You are the one referred to as "Woody" Biggs?

The Witness: Yes, sir.

* * * * * * *

[96] MILTON EIGER.

* * * * * * *

[110] Q. (By Mr. Thompson) How many times have you ever been in the plant at the Walton Manufacturing Company?

A. I never was there, sir.

Q. Well, how many times were you in the Loganville plant?

A. Never.

Q. How long have you been employed by this Union?

A. February 4th, 1957.

Q. Have you been continuously employed by them since that time?

[111] A. Yes, sir.

Q. Approximately how many classifications, job classifications, are there in a clothing plant of this kind?

A. A clothing plant, I would say it actually depends on the shop. Some shops have them broken down as far as forty or fifty different types of operations on a garment.

* * * * * * *

Q. And somewhere between one and up to the number you mentioned, that is the variety in these type plants; is that right?

A. Yes.

• • • • • • •

A. I was a tailor and a cutter, better known—they call it in the trade a fitter. On the market it is called a fitter. I did cutting and tailoring work.

Q. Did you operate a machine of some kind when you were operating?

A. I never operated a machine, but I know what they do. I explain to somebody how to work it.

Q. Did I ask you whether you knew or not? I asked you whether [112] or not you operated a machine.

A. No, sir.

Trial Examiner: You mean by that you never operated a machine or that you didn't operate a machine as a general practice while you were working?

The Witness: I never operated a machine, sir. Can I clarify that, sir?

Trial Examiner: Yes.

The Witness: We have price makers in the union who never worked in a shop to make prices on garments.

Trial Examiner: You haven't clarified it, but go ahead.

Q. (By Mr. Thompson) In a plant where garments are being made by machines as opposed to a tailor, isn't it true that some of the operations require more skill than other of the operations?

A. Yes, sir.

Q. Now, in an ordinary plant—there again I'm contrasting it with one that makes clothes by hand and a plant where they have machines—give us the names of two or three of the highest skilled operations.

A. Sleeve setter, baster by machine, pocket maker.

Q. What—give us the names of one or two of the jobs which require the least amount of skill.

A. You would call it yoke baster, the part joining the backs. That is just a straight seam, or somebody just what they call piecing up the linings—just making the seams on the linings.

[113] Q. What, in your mind, determines the skill of these jobs? What makes one require more skill than the other, in your mind?

A. It is a little harder to produce. The volume that you produce per units per day would make it that much higher.

Q. You mean the work you have to do on the garment is harder to do on the one operation as opposed to the other; is that correct?

A. That is correct, sir.

Q. Now, the various categories of people between that lowest skill and the highest skill would vary in their skill according to how it is to do that job; is that correct?

A. That is right.

Q. Has it been your experience that the jobs are paid —the pay for each of those jobs is compensatory with the amount of skill that is required?

A. On a general practice, true. It runs pretty fairly even.

Q. In other words, the person doing the more highly skilled jobs would be paid more than the persons doing the less skilled jobs?

A. Yes, I find it so.

Q. Can you give me the names of the employees of Walton Manufacturing Company who were in Breeze Inn the day that you referred, that you and Mr. Biggs and some of these other people were in there?

A. I'm sorry. I can't recollect. It has been that far back.

* * * * * * *

[115] Q. Did you know Mr. Scharff at the time?

A. Yes, I knew him. That was the second time I was pointed out to Mr. Scharff.

* * * * * * *

[119] The Witness: If I recollect, we had three that sat with us for a while. I don't know whether they sat with us or the next table. I'm trying to think how the setup was; I'm trying to think back and picture it—it has been some time ago and I'm trying to figure out where we were sitting. I remember there was three people, but the names I don't remember.

* * * * * * *

[122] MRS. SARAH BROOM.

* * * * * * *

[128] Mr. Thompson: I want to object to the question, Your Honor, on the grounds that it calls for a conclusion by the witness.

Trial Examiner: I'm going to let it in, describe what happened. If it is not tied up, we'll strike it.

Mr. Thompson: Very well.

Q. (By Mr. Joy) When were you followed?

A. Well, the first time—

Trial Examiner: Suppose you stop using the term "followed." That is the objective term. It calls for a conclusion. State exactly what it was the witness saw or observed which causes her to state she was followed.

Mr. Joy: It is kind of difficult. I don't know any other word to use.

• • • • • • •

[132] Trial Examiner: Now, he didn't follow you to the restaurant, did he?

The Witness: No, he went back to the plant.

Trial Examiner: You don't know where he went; you just didn't see him.

The Witness: No, I didn't. I didn't see him go to the plant and pick those up.

Trial Examiner: You hadn't seen him since the time that you had left the second girl's house.

The Witness: That is right.

Trial Examiner: Until the time you saw him in the restaurant.

The Witness: That is right.

Trial Examiner: You don't know where he went in the interim.

[133] The Witness: No, sir.

• • • • • • •

Q. (By Mr. Joy) And when you stopped at the first house, what became of him?

A. I didn't see him. He passed and went on down the road.

Q. Now, when you left there, did you go to another house?

A. Yes, sir.

Q. Did you see him at that time, while you were going to the [134] other house?

A. I didn't see him at that time, Mr. Joy.

Q. When you arrived at the second house, did you see him there?

A. No.

Q. Did you—I believe you said you went to three houses?

A. Yes, sir.

Q. When you were going to the third house, did you see him?

A. No.

Q. Did you see him after you arrived there?

A No.

Q. Did you see him any more that day?

A. Yes, sir.

Q. Where and when?

A. I saw him down at the Breeze Inn.

Q. What time was that?

A. The—it was in the afternoon, I would say about—between 3:00 and 3:30.

Q. And was he there when you got there, or did he arrive after you got there?

A. I arrived first and he came in.

Q. How long afterwards?

A. I guess I had been there about five minutes.

Q. While you were going there, did you see him; while you were enroute?

A. No, sir.

[135] Q. Did you at any time get the license plate—

Mr. Joy: Pardon me. I withdraw the question.

* * * * * * *

[137] Q. (By Mr. Thompson) The times you mentioned being in Loganville, in that vicinity, during the latter part of November of last year, did you come down here in your own automobile?

A. I came down here in—yes, in a rental car, yes, sir.

Q. Did you get the rental car in South Carolina?

A. Did I get my rental car in South Carolina?

[138] Q. Yes.

A. Yes, sir.

Q. And it had a South Carolina tag on it—

A. Yes, sir.

* * * * * * *

[140] Q. Now, give me the name of the first person you contacted on November the 30th.

Mr. Sheinkman: Object to the question, sir.

Trial Examiner: What is the purpose?

Mr. Thompson: She testified that she went around contacting, she mentioned five or six homes that she went to. Certainly we are entitled to know the names of the people she went to see to pursue that testimony to see if she is telling the truth, [14] for one thing. We've got her on cross-examination and if we can't find out that way, cross-examination means nothing.

Trial Examiner: The charge here of 8(3), possibility of reprisal, is involved. I presume that is the basis for the objection. Is it?

Mr. Sheinkman: Yes, sir.

Trial Examiner: Normally I would be inclined to allow the question. I'm going to sustain the objection since it is immaterial which employees she visited. The point involved was the point that she was being followed from place to place and I think that is the only materiality of the testimony, so I am going to sustain the objection.

Mr. Thompson: I intended to ask the same question with respect each place that she made a call to that day. I would like to ask those questions. I assume that your ruling would be the same.

Trial Examiner: You are asking for the names of the persons on whom she called?

Mr. Thompson: That is correct.

Trial Examiner: Yes.

* * * * * * *

[143] Q. (By Mr. Thompson) Mrs. Broom, what position in management [144] is Mr. J. B. Stephens; what position does he occupy with this company?

A. I don't know.

Q. Do you know whether he does, in fact, occupy a position in management?

A. No, sir.

* * * * * * *

[145] MRS FRANCES ELIZABETH POWELL

* * * * * * *

[161] Q. Do you remember whether any other official of the Company, Arthur or Harry Scharff, spoke, or was it only Morris that spoke at that time?

A. I don't remember right offhand, sir.

* * * * * * *

Q. Did he tell workers what to do and what not to do? Did you ever see him doing that?

A. No, sir. I never saw him telling anybody what to do, but [162] I have seen him looking at some of the work.

Q. You have seen him look at some of the work?

A. Yes.

Q. And you say he got up and said he was speaking for himself—

A. Not for himself; for his brother and father.

Q. I see.

And after that speech, did you see Morris on that Christmas party held on—around—when the hams were handed out? Did you see Morris there; do you remember?

Trial Examiner: I don't know anything about any hams being handed out, sir. Let's get that testimony.

Q. (By Mr. Sheinkman) Let me ask you a question. Did you receive anything from the Company?

A. Yes, sir.

Q. What did you receive?

A. A ham.

Q. Did all the employees there receive a ham?

A. Yes, sir. As far as I know, everyone did.

Q. And who handed out the hams; do you remember?

A. No, sir. I do not.

* * * * * * *

[163] Q. About how many people were laid off on January 31st, at the same time you were?

A. I would say anywhere between 13 and 20; I don't know exactly how many.

* * * * * * *

[165] Q. (By Mr. Thompson) Do you recall when it was that "Murph" made this statement to you that you had improved?

A. No, sir. Not the exact day.

Q. Was it before or after you were transferred to this other job?

A. It was after I was transferred.

Q. It was after this other lady—

A. After Mrs. Yancey was laid off.

Q. After Mrs. Yancey was laid off?

A. Yes, sir.

Q. How long after was it?

A. I would say anywhere from four to five weeks.

Q. Four to five weeks?

A. After she was laid off and I was given the job.

[166] Q. And who else was present when this was told to you?

A. Well, I don't know if anybody heard it, but I can name some of the girls that were right around where I was.

Q. Who are they?

A. It was Mary Alice Winslett, she worked in front of me; Mrs. Annie Brooks worked behind me; Odele Barnes was working to my right.

* * * * * * *

You say you were having makeup where you were transferred to the new job?

The Witness: Yes, sir. I did have makeup.

Trial Examiner: Was that regular?

The Witness: Yes.

Trial Examiner: Right up to the time you were transferred?

The Witness: Well, I can remember one time that I drew a check for forty dollars and thirty something odd cents.

Trial Examiner: That would not be makeup?

The Witness: No, sir.

Trial Examiner: But other than that one check, you had makeup right along?

[167] The Witness: Yes, sir.

Trial Examiner: And then you were transferred to Mrs. Yancey's job?

The Witness: Yes, sir.

Trial Examiner: Did you have makeup on that job?

The Witness: No, sir. I didn't.

Trial Examiner: Never?

The Witness: No.

Trial Examiner: How long after you were transferred to Mrs. Yancey's job did you get the machine, your old machine, moved up?

The Witness: It wasn't a day.

Trial Examiner: It was just that first day?

The Witness: Yes, sir.

Trial Examiner: Was that crying spell that you told us about caused by the fact that you were not able to operate her machine?

The Witness: Yes, sir. It was.

Trial Examiner: At least, you found it impossible to operate?

The Witness: Yes, sir.

Trial Examiner: It got you blue and down?

The Witness: Yes, sir.

Trial Examiner: And then you asked them to get you your old machine?

[168] The Witness: (Shakes head affirmatively.)

Trial Examiner: After that you had no trouble?

The Witness: That's right.

* * * * * * *

Q. (By Mr. Thompson) Mrs. Powell, at the time the group of employees were in the room with—in the office where the girls were, where the layoff was announced, didn't "Murph" make a [169] statement that there was not enough work and that was the reason for the layoff?

A. Yes, sir. I believe he did.

* * * * * * *

[170] Q. (By Mr. Thompson) Mrs. Powell, weren't you also told at that time that the Union didn't have anything to do with the layoff?

A. Well, they didn't specifically point me out and tell me that.

Q. Wasn't the group told that, though?

A. One of the girls in the office that day asked if the letter out on the board had anything to do with it; "Mr. Murph" said it did not, and then again after he said that, he said he didn't want to talk about it.

Mr. Thompson: No further questions.

Mr. Joy: Nothing else here.

Trial Examiner: He said he did not have anything else to do with it and he didn't want to talk about it; is that your answer?

The Witness: As well as I can remember, and understood it. He did say that.

Q. (By Mr. Thompson) I understood you to say that after it was over he said that he didn't want to talk about it; isn't that what you said?

A. Presumably that he didn't want to talk about it. I presumed that he didn't want to talk about it.

[171] Q. You presumed that he didn't?

A. Yes.

Trial Examiner: Did he say that?

Q. (By Mr. Thompson) In other words, he said that—

A. I don't know whether he said it or not.

Q. You are just saying what he—presumed that he didn't want to talk about it?

A. Yes, sir. By him cutting me short.

Q. All he said was: the Union didn't have anything to do with it?

A. He said the letter on the board didn't have anything to do with it.

Trial Examiner: And then from that you presumed that he didn't want to—

The Witness: Yes, sir. That he didn't want to talk about it.

Trial Examiner: We finally got that straight.

Q. (By Mr. Thompson) Isn't it true, Mrs. Powell, that "Murph" said the letter or the Union had nothing to do with it?

A. To the best of my knowledge, I believe he did.

Q. That is what he said?

A. He or either Mr. Morris, or Arthur; I don't remember which of the three said that, but to the best of my knowledge, I do believe that it was said.

Q. Thank you very much.

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[175] Mr. Joy: I said that the same factors which are attributed or stated as the reasons for selection of certain employees, the alleged discriminatees, the factors that are named as being the reasons for selecting them for their termination also existed with respect to many other employees who were not laid off and who either had no Union activity or such activity was not disclosed.

Trial Examiner: Do you contend also that there was no necessity for a layoff at that time, or is that not part of your contention?

[176] Mr. Joy: No, sir. We do not go into that.

Trial Examiner: I just wanted the record clear.

Mr. Joy: No, I think they can well establish the fact that there was a reduction in force.

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[179] The factors in this business were first—I'm not necessarily listing these in their order of importance—the quantity of production of employees; these people on piece rates, the number of garments that they were able to turn out in a given period of time was a factor which was considered. The quality of the work which they did; most of them are operating sewing machines, and the finished product that they were able to turn out. By that I mean the finished portion they do; was taken into consideration, the appearance of it. the craftsmanship that was used in producing that product.

The attitude of the employee; as "Mr. Murph" testified concerning one of them already; was a factor which was taken into consideration, whether they were cooperative,

whether they balked at being given instruction or correction, whether they were able to get along with the other employees or with their supervisors; was a factor which was considered in some of the cases. It was considered in each case, but it was an important factor in some of the cases.

The other factor which comes to mind at the present time is the fact of seniority. Now, with respect to seniority, I expect the evidence to show that where there were two employees doing a given job and they both were comparatively equal, then the one with the greatest seniority, as a general rule, would be [180] retained, and the one with less seniority would be laid off. That is not—that won't hold true in every case, but in the cases where there was no distinction between the people involved on the other factors, then seniority was taken into consideration.

Trial Examiner: You had three factors, is that it?

Mr. Thompson: Actually, there were four: there would be quantity, quality—

Trial Examiner: The general—

Mr. Thompson: Attitude of employee.

Trial Examiner: And seniority.

Mr Thompson: That is correct.

Mr. Scharff reminds me that there is another factor which will appear in some of the cases, and that is the versatility of the operator. There we are referring to whether they are familiar with a single operation or whether they are qualified or adapted to do more than a single operation, of course, which would be important when you are cutting back your work force.

Trial Examiner: Thank you very much.

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MRS. PAULINE McGEE.

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[187] A. Yes, I remember Morris saying that he was speaking to us as a friend, not as an employer, and he was speaking for his father and his brother.

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Q. Do you remember anything else?

A. He also said he wasn't telling us to vote for the Union or against it, but to do as we pleased, but he was not having the Union himself; if the Union came in, he wouldn't be there.

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[189] Q. Do you recall what was said in that second one?

A. No; he said some of the same things he said in the first one, and he was telling us the price rates, what the Union would pay, and said if we would check them with ours—with his rates—we would find out that we were getting more than what the Union would pay us, and he also told us it cost a lot to join the Union, and that each department would pay different fee to join, and would pay so much a month; the cutting room would pay one fee and the sewing machines would pay a higher fee and the press room would pay another fee.

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[194] A. Well, about ten minutes before five o'clock, my floorlady, Myrtle Ewing, came to my machine where I was working and said Morris wanted to see me in his office, so I started in the office. There was a whole line of girls lined up out in the hall. We waited out there until Morris,

"Murph" and Arthur came in. He called us into the big office and "Murph" and Morris—"Murph" spoke up and said that Morris and Arthur had asked him to do the speaking and he said, "What I've got to say is short and not so sweet," and he told us that we were all going to be laid off. Some of us asked him if it was temporary and he said, "For the time being," so I spoke up and asked him why he was laying me off, that I was the only one that was doing the job, that same kind of job at the plant; he said they was going to have to make some changes and some girls would do three or four jobs. Some of them asked him did seniority mean anything and he said, "No, seniority doesn't mean anything." I asked Morris did my name being on the letter on the board mean—was that the cause I was laid off, and he said no, that wasn't the reason.

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[198] Q. Did Harry Scharff ever tell you your work was bad?

A. He never bothered anybody in the plant.

Q. Did Arthur ever bother you?

A. No, sir.

Q. Did you ever see Arthur bother any other workers?

A. No, sir.

Q. Did you ever see Arthur telling—did you ever see Arthur talking to supervisors in the sewing department?

A. No, sir.

Q. Did you ever see Arthur talking to "Mr. Murph" in the sewing department?

A. No, sir.

Q. Where did Arthur spend most of his time?

A. In the shipping department.

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[229] Trial Examiner: You answer the best way you can.

A. According to my best recollection Johnnie Starrett was on make-up and came out of it pretty well. That's to the best of my recollection.

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Q. Those people were not discharged at the same time Mrs. Yancey was, or at any time thereafter, were they?

A. I believe Frances Allgood was discharged.

[230] Q. When?

A. If you will review the list of names. I don't believe any of the others were, but Frances Allgood was.

Q. When?

A. I believe she was discharged on January 31st. I believe, now. I—

Q. All right. Was she recalled at any time?

A. I don't think so.

Q. Now in so far as you know was Mrs. Yancey ever given a separation notice?

A. I can't recall, sir.

Q. Do you know what was the policy as to giving separation notices? When they were given, and when they were not?

A. Well, to the best of my knowledge separation notices were not given when the reason for the lay-off was lack of work.

Trial Examiner: You mean when it was given for any other reason, then they did get a separation notice?

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[233] Q. What was the particular instance or reason that caused the discharge on that particular day?

A. Mr. Examiner, I have to tell came back of this thing. In other words, I've got to say the reason on that particular day was the culmination of things that happened previously to it.

Trial Examiner: Answer the question the best way you know how.

A. Grace McCart's quality had been poor from the first day I came there. I constantly admonished the supervisor. The supervisor constantly admonished Grace McCart about the bad work which she was doing. There were several things that she did not do that were considered poor quality. She did not set her collars properly. She did not sew her collars properly. There were holes left. We had an enormous amount of repair work on her jobs. There were times when we had one girl standing at the table--little girl we had there examining--her first inspection, for a whole day or more, ripping work that had to go back to the machine to be fixed.

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[234] Trial Examiner: Yes, sir. I think you have given us enough background. Now, tell us what happened on that day.

A. On that particular day, the day previous, she had set a large number of collars improperly. She had incorrectly matched the thread on the operation. I just felt that we had had enough.

Q. When you said that the supervisor had constantly admonished her or words to that effect, do you know that to be a fact of your personal knowledge?

A. Let me put it this way. I instructed the supervisor to admonish her and the supervisor reported back to me that she had.

Q. Mr. Examiner, I move to strike the testimony that she had been constantly admonished because that is nothing but hearsay.

Trial Examiner: To the extent that he was not present he cannot say that she was admonished.

A. I say to the extent that I was present, she was admonished, I was present several times.

Trial Examiner: Don't volunteer any information. Just answer the question as put to you.

Q. When were you present? When were you present when she was admonished?

[235] A. I don't remember the exact date.

Q. About when?

A. I would say approvixately two weeks before that. Approximately two weeks before that.

Trial Examiner: On how many occasions were you present when this Miss Grace McCart was admonished for poor work?

The Witness: I—

Trial Examiner: On how many occasions were you present personally when Grace McCart was admonished for poor work?

The Witness: I don't know the exact number. I would say at least two times.

Trial Examiner: All right, now. On these two occasions, how long were they before she was discharged?

The Witness: Approximately two weeks to four weeks.

Trial Examiner: Now, what was the last time before discharge that you personally heard her admonished?

The Witness: I would say approximately two weeks.

Trial Examiner: And prior to that that you heard her admonished.

The Witness: Possibly around two weeks before that.

Trial Examiner: On the occasion just preceding her discharge, that is the one two weeks before her discharge, had you ever heard—exactly what did you ever hear which you call an admonition?

The Witness: I overheard the supervisor telling Grace [236] McCart that her work was bad.

Trial Examiner: Are those the words the supervisor used?

The Witness: I do not know the exact words.

Trial Examiner: To the best of your recollection, give us the words as you remember them.

The Witness: I'm sorry. I cannot give you the words better than what I have said. She did not tell her that her work was bad, but she pointed out that she was doing various things on the collars. Various things.

Trial Examiner: In other words, the statement that the work was bad is your conclusion.

The Witness: That is correct.

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[239] Q. Did you have any particular monetary standards that you apply as to how much your people should earn to be retained?

A. No.

Q. Did you not tell that to Mrs. Coker—that you wanted every operator on that job to be capable of making $50.00 or $60.00 a week?

A. I did. I told her that I thought an operator on that job should be capable of earning at least $50.00 a week.

Q. $50.00.

A. (Nods head affirmatively.)

Q. Did Mary Lou Partain earn $50.00 a week on that job?

A. No. She did not.

Trial Examiner: What was that last name, please?

Mr. Joy: Partain. P-A-R-T-A-I-N.

Q. As a matter of fact, Mary Lou Partain had makeup there a great many weeks, hadn't she?

A. Mary Lou Pratain was not considered a regular operator.

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[241] Q. (By Mr. Joy) The last pending question was, did Mary Lou Partain have makeup?

A. No. She had no makeup pay.

Q. Had no makeup pay.

A. I'll explain that. Mary Lou Partain was considered a utility operator. A utility operator in our factory is not considered to be on the piece work. And therefore, we show no makeup pay.

Trial Examiner: Do I understand, Mr. Prosterman, she was on a weekly salary, regardless of the amount of production she made?

The Witness: That is correct, sir.

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[245] Q. (By Mr. Joy) Were any other employees hired after Bonnie Hamilton's lay-off to work on that operation?

A. No.

Trial Examiner: And by "that operation," you are talking about welt setting.

Mr. Joy: Yes, sir.

Q. (By Mr. Joy) Who is performing the welt setting since Bonnie was laid off?

A. Lucille Yancey has done the principal amount of the work, and a small amount of the work has been done by an operator by the name of Lonabelle Camp.

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[247] Q. (By Mr. Joy) Has anyone been hired since that lay-off since January 31st who has worked on back-seaming?

A. No.

Q. Has anyone been hired since that January 31st lay-off who has worked on flap pockets?

A. No.

Q. How about patch pockets?

A. No.

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[250] Trial Examiner: In view of that, what made you select Pauline McGee for lay-off and not the other girl?

The Witness: I felt that Charlotte Findley had a greater potential. She progressed more rapidly on her job than did Pauline McGee.

Trial Examiner: Can you explain that more specifically? What do you mean by "progressed more rapidly"?

The Witness: Both of the girls were showing make-up at that time, and from the time that we started them

both on the job until the time of the discharge Charlotte Findley had shown greater progress. She had shown a—that she earned more money on the job. That was one part.

Trial Examiner: Less make-up than the other.

The Witness: Less make-up than the other.

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[257] Q. (By Mr. Joy) But I believe she had as good a record or better than many other employees.

A. Than some.

Q. Was it as good or better than Mattie Lou Fulchers?

A. Offhand I would say it was not as good.

Q. How would you compare it with Claudine Kilgore's?

A. Her record wasn't as good as Claudeen's.

Q. How would you compare it with Margaret Britt's?

A. Not as good as Margaret Britt's.

Q. How would you compare it with Charlotte Findley's?

A. This I can't remember. I believe that Charlotte had a better record.

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[258] Q. Since she was laid off has anyone been hired to perform the felling operation that Ida Harper performed before?

A. No.

Q. Who has been doing it?

A. Well, first we started out by having Geneva Harris, the girl that was originally intended to take over that job. However, we increased the operation of Geneva Harris, causing her to require more time on the original op-

eration and usually performed this operation by several girls.

I will have to qualify that. It's a little complicated. The job as it stands is a very small job in the factory requiring a production rate of approximately 400 a day, required approximately five hours' work. We cut our production down to approximately 300. Therefore, it wasn't a full time job for [259] any particular operator.

In the meantime we had eliminated another job called bottom hem basting, which was the job formerly done by Pauline McGee. As I recall, the operator left. Charlotte Findley did not have full time work. So that particuar job was farmed out, so to speak, among two or three different operators, depending on who had the time to do it at that particular time. It was performed and is being performed today by Charlotte Findley and Geneva Harris, and Mary Alice Winslett; and that's only three of them. And it is possible that there may be others who also have done that work at various times.

Q. Do you know whether Frances Johnson's termination was a lay-off or discharge?

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[260] Trial Examiner: What were the reports that you received about her?

The Witness: The reports that I received were she liked to play around. She wouldn't stick to her job. Spent a lot of time in the washroom. Talked excessively.

Trial Examiner: Had she been warned about these things?

The Witness: Yes.

Trial Examiner: On how many occasions?

The Witness: This, I don't know.

Trial Examiner: Frequently?

The Witness: This I can also not say.

Trial Examiner: On how many occasions did you instruct your supervisors to warn her?

The Witness: I cannot say how many occasions.

[261] Trial Examiner: Have you any idea at all?

The Witness: No. I can say she was the subject of general disscussion at various times, but I cannot say how many times.

Trial Examiner: Frequently?

The Witness: Frequently; yes.

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Another thing, too, with all the bad things I might have said about this girl, there was something good about her, too. When she wanted to work, she could work. I have seen her sit [262] down at that machine and turn out 90 coats an hour. But generally, she would turn out 45 or 50. So we felt there were some hopes.

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[266] Q. Why was she selected to be laid off?

A. I had a section—she was in the lining section at the time. I had five people in that section. On some occasions I had another person—it was about five and one half people. I found it necessary to reduce my force by two operators. And since I felt that Elizabeth Johnson and Mary Barnes were the [267] least qualified in that section, I laid them off.

Q. Who were the other three?

A. The other three. There was Annie Brooks, Ima Jean Meeks, and Adell Barnes. And what I said about a

part time operator was this Mary Lou Partain. She also did some work in the lining section.

Q. Was Mary Barnes laid off at the same time?

A. Yes.

Q. Was Mary Barnes recalled?

A. Mary Barnes was recalled. Yes.

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Trial Examiner: Yes.

Q. Was Mary Barnes receiving makeup pay before she was laid off?

A. I believe she was.

Q. Was Elizabeth Johnson receiving makeup pay before she was laid off?

A. Yes.

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[270] Q. Who absorbed her work?

A. Her work was done partially by the supervisor—by her supervisor.

Q. Who was that?

A. Mr. Carter. And at various times by various operators. I think I can name a few. I can't name them all.

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[275] Q. Isn't it a fact that she was pretty much a utility operator and used on many operations?

A. She was used on other operations. She was not a utility operator.

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[277] Q. Has anybody been hired to work on either of those operations since she was laid off?

A. No.

Q. How did her production compare—how did her production compare with that of Johnnie Starrett?

A. Slightly lower.

Q. Isn't it true that Nellie Wood came out as a make-up much earlier than did Johnnnie Starrett?

A. I can't answer that. I don't recall.

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[293] A. That's right. Pardon me. I would like to qualify that, sir. He asked me the plant; I assumed he meant the sewing portion of his plant; not his office. And I answered the question on that basis.

Q. Was he at the Walton Manufacturing Company premises during this period that you were asked about the plant?

A. Yes.

Q. Was he there daily?

A. I would say almost daily. I can't say—

Q. And what was your relationship to Mr. Morris Scharff?

A. Morris consulted with me—or, rather, I should say I consulted with Morris quite often regarding technical matters of various types. In other words, Morris was available for consultation when and if I needed him.

Q. Did you consider him as your supervisor?

A. No, sir.

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[294] PAULINE McGEE.

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[301] Q. Right after Mr. "Murph" came there, which would be September, as you stated, and the time that the pants were made in the plant, starting in January, how

many times did you see Mr. Hughley over there instructing Mr. "Murph" on how to operate the plant?

A. I didn't count the times. He was in there lots of times.

Trial Examiner: We are talking about the period between September, 1957, when Mr. "Murph" came to work in the plant, and before the pants plant came in. How many times?

The Witness: I don't know. I don't know how many times. He was in there a lot; a lot of times.

[302] Q. (By Mr. Thompson) Would you say it was more than ten times?

A. I don't know. I didn't count them.

Q. I am just asking your best estimate. As I understand, you don't know the exact number.

A. No.

Q. Would you say it was five times during that period?

A. He was in there very frequently.

Q. What was he doing in there?

A. I don't know what his business was, and he would always pass by and speak to us and have something friendly to say.

Q. You got on the stand yesterday and said he was instructing Mr. "Murph" about the plant. You don't know for sure what he was doing until after he came there.

A. One time he was at the sewing machine and showing how to do the operation.

Q. I am attempting to confine the discussion to the period between September and January, when the pants

were made at another place. Now the truth of the matter is that you don't know what Hughley was doing over there, except right after "Murph" started, except that you saw him over there, isn't that right?

Trial Examiner: Do you understand the question?

The Witness: I don't know whether he knows what he is asking, himself.

[303] Mr. Thompson: I want the record to show that.

Trial Examiner: I am sure Mr. Thompson knows what he is talking about. I am trying to find out whether you know what he is talking about.

The Witness: I don't understand the question.

Q. (By Mr. Thompson) Mrs. McGee, you testified yesterday you saw Mr. Hughley over there instructing Mr. "Murph" on how to run the operation; isn't that right? Do you recall testifying to that effect?

A. I don't know if that was the exact words, or not.

Q. Do you recall testifying to that effect? That's my question.

A. I said something about it. I don't know whether it was the exact words, or not.

Q. Now you testified here today that shortly after Mr. "Murph" came there you observed Mr. Hughley demonstrating or illustrating or pointing out to him the way that you and the other girls do work; isn't that right?

(Witness nodded affirmatively.)

Q. Now my question is this—let me say this, first: You also testified that during this period from October or September to January you saw Mr. "Murph" in the plant, throughout that period. Is that right? Is that correct? Mr. Hughley, I mean.

A. I saw him come in several times; yes.

[304] Q. Now my question is this:

Trial Examiner: Excuse me. You are saying "several," now. Previously you said "many times." Now which is—

The Witness: He was in several times during each week.

Q. (By Mr. Thompson) The truth of the matter is you don't know what he was there for except in September when you said you saw him point out to Mr. "Murph" what the operation was, you don't know what he was doing those other times, do you?

A. I wasn't at the machine talking to him. I was like everybody else. Just seeing him in the plant.

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[305] Q. Now isn't it true that in that speech—this was the first speech that you mentioned. I believe you mentioned two speeches.

A. Yes, sir.

Q. Isn't it true in that speech Morris Sharff made the statement that nobody would be fired because of the union if they were for it or against it?

A. Yes, sir.

Q. And didn't he also tell you in that speech that you and the other employees were free to talk about the union during [306] your lunch period and on breaks?

A. Yes, sir.

Q. Did Mr. "Murph" ever make any mention of unions to you at all?

A. Not by the direct name.

Q. By that you mean he never made any mention to you personally, did he?

A. He didn't say anything about the union to me.

Q. That's my question. You were present at the time the lay-off was announced in the office area of the plant; is that correct?

A. Yes, sir.

Q. Do you recall what was said about unions at that time?

A. Yes, sir.

Q. Isn't it true that both Morris and Mr. "Murph" made the statement that the union or the letter had nothing to do with the lay-off?

A. Yes, sir.

Q. Do you know anybody that was involved in that lay-off who got a separation notice?

A. No, sir.

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[310] MRS. LUCILLE YANCEY.

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[311] Q. Did you have any trouble with Mrs. Grace Higgins about being instructed in your—

A. Well, I wouldn't say that I had trouble. We had discussions [312] about the job several times, but not trouble.

Q. Did she ever reprimand you about it?

A. Beg your pardon?

Q. Did she ever reprimand you about it?

A. No, sir.

Q. Did Murph ever reprimand you about your work?

A. No, sir.

Mr. Thompson: I want to object to the questions concerning whether somebody reprimanded her or not. It calls for a conclusion on the part of the witness. She's here to testify to anything that might have taken place and give the details of it, but to give a conclusion of this kind is improper.

Mr. Joy: I'll rephrase the question.

Trial Examiner: The question has been withdrawn. Rephrase it.

Q. I believe you have already testified that Mrs. Higgins never told you that your work was not satisfactory. Did Mr. Murph ever tell you your work was not satisfactory?

A. No.

Q. Did Mr. Hughley ever tell you your work was not satisfactory when he was there?

A. No. He didn't.

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[319] Trial Examiner: Who said to Doc, "I'll have to lay you off."? Because there wasn't enough work.

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[324] Trial Examiner: That is the name of your supervisor, is it not Mrs. Higgins?

The Witness: Yes.

Trial Examiner: Did you have any argument with Mrs. Higgins at any time during your employment?

The Witness: No. We had discussions.

Trial Examiner: Well, now, you call them discussions. What were these discussions about?

The Witness: Well, it was about the length of the lining that went to the coat. Some would be short and some would be long.

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[326] A. I would say I would see him, if he was there, I would see him maybe once or twice a day or sometimes more. It all depended on what he had to look at.

Trial Examiner: What was he doing at the plant?

The Witness: Most of the time he walked around and looked at the work or talked to someone.

Q. He talk to you about the work before you had that conversation with him in his office in December?

A. No.

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[332] Q. I am not talking about most of the time. I am talking about any time. Did you ever have to rip one out and sew another one in?

A. Well, if they told me to, I would.

Trial Examiner: Now did you? You are evading the question, ma'am. You were asked whether you ever had occasion to re-sew a lining into a garment.

The Witness: Yes. I understand that question.

Trial Examiner: That's a simple question. You did have occasion to do that.

The Witness: Yes.

Trial Examiner: Why don't you say so, instead of fencing with Mr. Thompson?

Q. (By Mr. Thompson) Did you ever rip out a lining and sew the same lining back in?

[333] A. No.

Q. You never did.

A. No.

Q. Your testimony is that the whole time you were working at this plant you never ripped out a lining and sewed the same one back in.

A. No.

Q. Did you ever discuss with your supervisor or any supervisor in this plant this problem of the fullness and the ripping out of linings and that type of thing?

A. I asked her—the only thing—

Q. Who is "her"?

A. My supervisor. Grace Higgins. I asked her would it be possible that they could cut the lining a little longer in order to give me plenty of fullness that they would like to have.

Q. What took place prior to your asking her that, that would occasion asking the question? Why did you ask her, in other words? What had you experienced that caused you to ask her to cut them a little longer? Were you having trouble with them?

A. If they wasn't long enough I couldn't have the fullness all the way, and if they had it an inch longer, I could have put the fullness all the way. That was the reason I asked.

Q. In other words, you were having trouble turning out the [334] right kind of job.

A. They accepted the job and said it was all right. "Let it go."

Q. You were turning out a proper garment.

A. Yes.

Q. Why did you ask to have it cut?

A. To make it easier on me.

Q. The garment was perfectly proper and satisfactory, the way you were turning it out. Your entire purpose was to make it easier.

A. Yes.

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[335] Trial Examiner: Why don't you say that? That's what Mr. Thompson is trying to find out.

Q. (By Mr. Thompson) Then you have had discussions with your supervisor on some subject; whether it was the work, or some other subject.

A. Yes. On social. Just ordinary talking.

Q. Your supervisor never made any mention about a union to you, though, did she?

A. No.

Q. And neither did Mr. "Murph", did he?

A. No.

[336] Q. And as far as you know there never was a union meeting while you worked in the Walton Manufacturing Company; isn't that true?

A. I was fired before they had a union meeting.

Q. Isn't that true? There was never a union meeting while you were working at Walton Manufacturing Company; isn't that true?

(Witness nodded affirmatively.)

Trial Examiner: Keep your voice up, please.

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[337] Q. Now it is true, Mrs. Yancey, that you didn't do any active solicitations for this union, did you?

A. No.

Q. You didn't go out and sign people up, like some of the other girls might have, did you?

A. No.

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[338] Q. Mrs. Yancey, do you ever recall having an argument with your supervisor, Mrs. Higgins, over anything?

A. Never had an argument. Had discussions about the work, as I have already told you.

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[341] PEARL COKER

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[343] Q. Did you do that same operation throughout your whole period of employment?

A. Yes.

Q. Were you on production rate; get paid by production, or by the hour?

A. When I first went there, by the hour.

Q. And after that?

A. They set up production on me.

Q. Did you have make-up pay?

A. Yes.

Q. Did the amount of your make-up pay stay the same, or approximately the same throughout your period of employment, or did it increase or decrease?

A. Well, it decreased. I mean, at the last it decreased, you know.

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]344] Q. Could you hear everything that was said?

A. No.

Q. Did you hear any of it?

A. Yes.

Q. Tell us what you remember of it. Pardon me. Can you place the date when this talk was made?

A. No, sir; I don't remember the date.

Q. Can you place either one of them?

A. No.

Q. Tell us what you remember about the first one.

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[355] Q. I believe you stated you didn't hear all that was said.

A. Not everything. Just now and then I could hear a few things.

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[356] Q. Isn't it true that you had make-up during most of the weeks that you worked at this company?

A. Probably—I had make-up every week, I guess.

Q. Are you familiar with the production of the other people who were doing the same identical operation that you were?

A. No.

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[358] VIOLET EWING

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[362] Q. Did you ever hear Morris Sharff make a speech in the plant?

A. One.

Q. Can you place when that was?

A. I would say it was the last of November. I mean—Yes.

Q. Did you hear everything that was said?

A. No.

Q. Do you remember everything that you heard?

[363] A. No; I don't remember everything.

Q. Do you remember any of it?

A. Just part of it.

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[368] Q. Were you told at that time why you were picked to be laid off?

A. Other than I didn't have any work.

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Q. After you went on that job and Elizabeth Johnson wasn't working on it, did you have any discussion with any supervisor about Elizabeth's work?

A. No. I had asked Jerry did she make production, and he had told me that she did.

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[375] Trial Examiner: Before Thanksgiving. And after you joined the union, did you solicit others to join the union?

The Witness: No.

Trial Examiner: Did not solicit anybody to join the union?

The Witness: No.

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[378] A. Well, as well as I remember, he said they were going to have to let us girls go because their production had been cut.

Q. Did he say anything about unions?

A. No. He didn't.

Q. Did anybody ask him about unions?

A. Someone asked him if we were being laid off because our names were out on the board. And they said that didn't have anything to do with it.

Q. Who said that didn't have anything to do with it?

A. Mr. Murph.

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[385] GRACE McCART

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[391] Q. I see. Now, were you paid on a production basis or by time?

A. I was paid by time for about two months.

Q. After that?

A. I was on a production basis.

Q. Did you have makeup any after you were put on production?

A. At first.

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[396] Q. (By Mr. Joy) Do you remember anything else that was said at that time?

A. He told me that they may have work for me later up at the pants plant, and he called Mr. "Murph" into the office and talked with him and I waited outside, and when I went back in he said that they didn't have anything down in the coat department for me. That they may have later in the pants department. And for me to check with Mr. Hughley up at the pants department.

Q. Did you do so?

A. Yes, sir.

Q. Did you get work there?

A. No, sir.

Q. Did you ever return to work at Walton Manufacturing?

A. Yes.

Q. When?

A. March 3, 1958.

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[399] Q. (By Trial Examiner) Did you discuss with him union at all?

A. No, sir.

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[401] Q. (By Mr. Thompson) And during the course of your employment, except for the conversation that you had with Morris at the time you were discharged, none of the other people in the plant ever said anything to you about union, did they—

A. Yes.

Q. (Continuing) —none of the management, did they?

A. No. None of the management.

Q. Your supervisor, or Mr. "Murph" never said anything to you about the union, did they?

A. No, sir.

Q. You are presently working at the Walton Manufacturing Company; is that correct?

A. Yes, sir.

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[403] *Further Cross-Examination.*

Q. (By Mr. Thompson) Mrs. McCart, these weren't new machines, were they?

A. Yes. They were new machines.

Q. They weren't old, worn out machines?

A. No.

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BONNIE HAMILTON

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[409] Trial Examiner: Wouldn't have what?

The Witness: Wouldn't have him.

Trial Examiner: Wouldn't have Sharff?

The Witness: Sharff; that's right.

Q. (By Mr. Joy) Was Arthur Sharff present at that time?

A. Yes.

Q. Was his father; Mr. Harry Sharff?

A. I believe he was.

Q. Will you tell us what you can remember about the second speech?

A. Well, in the second speech it was something similar to the first. That he was acting as a friend. And he was using a microphone and recorded the speech.

[410] Q. Was that true just of the second one?

A. He also used it on the first.

Q. Was Arthur Sharff there during the second speech?

A. Yes.

Q. Was his father there?

A. I don't remember.

Q. Did the Company ever have a party at the plant for its employees?

A. Yes, sir.

Q. When was that?

A. It was on Christmas Eve.

Q. Who was present at that?

A. The coat and the pants department was present.

Q. Will you tell us roughly what happened there? I mean, were there gifts given? A Christmas tree, or anything of that sort?

A. Yes. We had a big Christmas tree, and refreshments for the plant, and also give the employees a ham.

Trial Examiner: Was it a big ham? I have heard a lot about these hams. Was it a big ham?

The Witness: Weighed about 10 or 12 pounds, I believe.

Trial Examiner: All right.

Q. (By Mr. Joy) Was there any speech made at the party?

A. Yes.

Q. Who made that?

A. Arthur Sharff.

[411] Q. And what was told you during that speech?

A. He told us work had been slack but that after Christmas [illegible] could be begging to be off a day.

Q. Do [illegible] recall anything else in that speech?

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[415] I went in the office and there were already several girls in there, and there were more that come in after I did. And "Murph" and Arthur and Morris were all in there, and "Murph" said he had a speech to make. That it was short and not so sweet. That we were going to be laid off.

Q. Did he say why?

A. He said due to circumstances in the plant, and lack of work.

Q. Did he say what the circumstances in the plant were?

A. No; he did not.

Q. Was anything said while you were in there at that time about the union, or about the letter from the union?

A. Yes. There were several of us girls asked him if our name being on the letter had anything to do with our being laid off, and we were told that it had not.

Q. Who gave that answer?

A. Morris.

Q. Was there any discussion about why individual employees were picked out to be laid off?

A. Yes.

Q. Will you tell all that you can remember of it?

A. We asked if our seniority meant anything, and at first [416] "Murph" said it did. And I told him in that case I was higher than Lucille Yancey. He said well, they were picking the most qualified for the job.

Mr. Joy: May I see General Counsel's Exhibit 7?

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[421] Q. (By Mr. Thompson) Mrs. Hamilton, how much time during your employment at Walton Manufacturing Company did you spend on bar-tacking?

A. Just occasionally. Whenever they needed someone, and I didn't have any work to do.

Q. It wasn't much time, though, was it?

A. No.

Q. You didn't spend—what would you say? Just a few days doing that type thing?

A. I couldn't say exactly, but it wasn't long.

Q. Would the same be true of side-seaming?

A. I did more of the side-seaming than I did of bar-tacking.

Q. But you didn't spend the major portion of your time doing that, did you?

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[426] Q. Can you tell us at this time whether all except one of the names on that letter had check marks beside it—beside them?

A. Well, to the best of my knowledge there were two of the girls—wait just a minute. There was one of the girls was laid off. Her name was on the letter. There was one of them absent.

Q. Do you recall that name?

A. Lela Beaver. She was already laid off.

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[431] Q. How many people were at the meeting that was held at Mrs. Ewing's home?

A. That I don't know.

Q. You were there, weren't you?

A. I was there.

Q. Tell us who else was there.

Mr. Sheinkman: I object to the question.

Trial Examiner: I sustain the objection.

Tell us how many people were there.

The Witness: There must have been around eighteen.

Trial Examiner: How many people were at the meeting at your house?

The Witness: Around thirteen.

Trial Examiner: How is it you were able to state how many people were at these meetings and were unable to answer that same question when it was asked you by Mr. Thompson?

The Witness: Well, the approximate number—I could guess at it. But to be sure—I wouldn't know.

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[432] MRS. IDA HARPER

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[440] Q. Did he tell you what those advantages were?

A. If he did, I didn't hear him.

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[443] Trial Examiner: And which name had a line along side of it?

The Witness: Jeanette Beaver.

Q. (By Mr. Joy) Will you tell us what occurred on the day that you were laid off?

A. Well, Myrtle came to my machine—

Q. Myrtle who?

A. Ewing. It was about five or maybe ten til five, and told me [444] that Morris wanted to see me in the office. So when I went in there was a bunch of girls lined up in the hall that went into different offices. And after we all got in there we went into the main office and all the office girls left. And Morris and Arthur and Murph were in there. And Murph told us that he was going to lay us off because of lack of work. And some of the girls asked him was it temporary or permanent. And he said first it was temporary and then he said it was permanent.

And then some of them asked the reason we was being laid off was because of our names on that letter. And he said "No".

Q. Who said "no"?

A. I don't remember if it was Morris or Murph.

Q. All right. Have you been called back to work since then?

A. No, sir.

Mr. Joy: No further questions.

Further Direct Examination.

Q. (By Mr. Sheinkman) At that Christmas party, do you remember whether any speeches were made?

A. There was one made.

Q. Do you remember who made the speech?

A. Arthur.

Q. Do you remember what he said?

A. I couldn't hear him.

Q. Couldn't hear him?

A. Couldn't hear him.

* * * * * * *

[450] Q. What exactly is repair work?

A. Well, it is something that is done that sometimes the one that sews it either, you know, don't sew it right, or maybe it is not cut right, or something like that, and it has to be took out.

Q. Then what it is, it is work that is not satisfactory for some reason or other and has to be re-done. Isn't that about what it amounts to?

A. Yes, sir.

Q. While you were working at the Walton Manufacturing Company did you have any repair work?

[451] A. Yes, sir.

Q. Did you have a substantial amount of repair work, or just a little bit of repair work, or what was your general experience there?

A. Well, especially white coats. We had a lot of them. Because "Murph" said when they was pressed, that the outside of the coat would draw up and that would make the lining longer than the coat. So we had a lot of them.

Q. I wonder if you would answer my question. My question is whether you had a lot of repair work or whether you had just a little bit of repair work during the time you worked there? Without regard to what Mr. "Murph" might have said.

A. Well, it just varied. Some days I would have maybe a good many, and the next day maybe I wouldn't have over five or six.

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[452] Q. Let me, in other words, refer to your own work. Let's disregard what other people in the factory—what their experience might have been. With respect to the work that you did. Throughout the time that you were working there, did you have much work that had to be re-done that you could classify as repair work?

A. Well, on some of them I did.

Q. Some of what?

A. Different kind of material. There is different kind of materials. I had a good many, maybe, on gabar-

dine. It was hard to get the machine adjusted right. I had a lot of them.

Trial Examiner: That is work that you did originally, that had to be re-done.

The Witness: Yes.

Q. (By Mr. Thompson) Who did this repair work?

A. I did.

Q. It is true, isn't it, throughout the time you worked there you constantly had repair work?

A. Yes, sir.

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[453] Q. Did you have trouble with both of those machines?

A. Yes, sir.

Q. Did that trouble continue throughout the time you were employed there?

A. Yes, sir.

Q. Was there ever any time you had more than one day without having trouble with those machines?

A. Some days I could maybe sew all day and not have trouble and then maybe a half a day, or an hour or two.

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[454] Q. Now did I understand you to testify that the time you were working for this company, you were paid on an hourly basis?

A. Yes, sir.

Q. The entire time you were working there.

A. Yes, sir.

Q. Did you ever have any make-up pay while you were working there?

A. Yes, sir.

Q. Did you have make-up pay the whole time you were working there; every week?

A. Yes, sir.

Q. Will you explain to me how you can have make-up pay and get paid by the hour?

A. They never did tell me what my production was on that job.

Q. You received the minimum rate per hour.

A. Yes.

Q. Is that what you are testifying?

A. Yes.

Q. Actually, you were on a piece rate, weren't you?

A. I thought I was paid by the hour, because I just got a dollar an hour. And each week I got the same amount, unless [455] I had overtime.

Q. And the reason for that was you never made your production; isn't it?

A. I guess so, but they never did set it; or never did tell me what it was.

Q. In the course of your work while you were turning out these garments, did you not work as hard as you would have worked if you had known what your quota was? Is that what you are testifying?

A. No. I worked—I tried to do as many as I could every hour, as long as I had the work and the machine didn't give me trouble. Maybe one hour I would get 25 or 30. And if it didn't break down, I might do 75 or 80.

Q. It wouldn't make any difference after you had done what your production quota was, as to how much you turned out, would it?

A. I don't guess so.

Q. I mean, that doesn't have any bearing on why you were paid by the hour, or by the piece?

Trial Examiner: What doesn't have any bearing?

Mr. Thompson: She testified no production quota was ever brought to her attention, and for that reason she was paid by the hour. I am trying to find out the logic behind the statement.

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[457] Q. Were you aware that you had make-up pay every week?

A. Yes, sir.

Q. Now did I understand you to testify that the job which you were performing at this plant was more complicated than the job that Charlotte Findley was performing?

A. Yes, sir.

Q. In what way was it more complicated?

A. Well, I had to change thread on the different colored coats, and I also had to adjust the machines to the different kind of materials.

Q. Were those jobs identical, with the exception of the two things you had to do that she didn't have to do?

A. Sir?

Q. Were those two operations identical, other than the two things you just mentioned that you did that she didn't have to do?

A. Yes, sir.

[458] Q. I didn't understand you.

A. Yes, sir.

Q. Were you sewing the same portion of the garment?

A. Yes, sir. Sewing the lining to the coat.

Q. Did you sew a different part of the lining than she did?

A. No, sir. I sewed down below. She basted. and I sewed after she basted. The stitching went between the lining and the coat.

* * * * * * *

Q. Did any of your supervisors, or anyone else connected with management, ever speak to you about unions?

A. No, sir.

Q. Between the time that this letter was brought to your attention by Mr. Morris Sharff, which contains your name, and the time that you were laid off on January 31st, was any mention made to you by anybody in management concerning unions?

A. No, sir.

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[459] Q. Now, Mrs. Hamilton—I mean Mrs. Harper, isn't it true that at the time you were working at this plant that you spent a portion of your time while you were supposed to be working or while you were working, perhaps, talking and laughing and generally staying away from the work that you were supposed to be doing?

A. Well now, when I wouldn't have anything to do, or if I was just about caught up, Myrtle would tell me to take my [460] time, or either go to the bathroom, or do something. You know, she didn't have anything for me to do.

Trial Examiner: You are talking about Myrtle Ewing.

The Witness: Yes.

Q. (By Mr. Thompson) Now during those times, is that when you engaged in the activities that I just now described?

A. Sir?

Q. Are those the times that you engaged in the activities I have just now described?

A. Yes, sir.

Q. You didn't engage in them at any other time.

A. Not as I can recollect.

Q. It's possible your recollection might have failed you with respect to that?

A. I just don't know. I don't remember.

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[462] Trial Examiner: Continue.

Q. (By Mr. Sheinkman) Was it often that you didn't have much work to do?

A. Yes, sir. Sometimes it would be two or three days a week, I didn't have much work to do.

Q. You wouldn't have a full eight hours work, is that right?

[463] A. That's right.

Mr. Sheinkman: No further questions.

Examination.

Q. (By Trial Examiner) What was the length of time, on the average, when you didn't have much work to do when you were having this free time? How much of the day?

A. Well, maybe it would be two or three hours. Maybe sometimes an hour.

Q. And how often did that occur?

A. Sometimes two or three days a week.

Q. Now did you—you knew that you were receiving make-up pay every week; is that correct?

A. Yes, sir.

Q. Your check so indicated.

A. Yes, sir.

Q. Did you ever take the trouble to ask anybody what that meant?

A. I asked Myrtle.

Q. And what did she tell you?

A. I asked her why did I have make-up and they hadn't set my production, and she said she didn't know.

Q. You understood, then, that make-up pay indicated no production had been set for you.

A. I thought when you had make-up, it had been set.

Q. But you just didn't know what the production was?

[464] A. Yes, sir.

Q. Do you know Geneva Harris?

A. Yes, sir.

Q. What kind of work was she doing?

A. When I was working?

Q. Yes. When you were working.

A. I just don't remember what she was doing.

Q. All right. Did you ever have any arguments with Mrs. Ewing?

A. No, sir.

Q. Did she ever tell you that your work attitude was poor?

A. No, sir.

Q. How often were you absent from the plant?

A. I really don't know.

Q. Were you absent frequently?

A. It was only when my baby was sick.

Q. And how often did that occur?

A. Well, along around Christmas, and right after Christmas, he was sick a lot.

Q. I don't know what you mean by "a lot." Would you explain that to me?

A. Some days he would be sick two or three days a week, but I don't think I was out over one day at a time, two or three times.

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[465] Q. Were you told that there wasn't enough work for you to do?

A. Yes, sir.

Q. When were you told that?

A. I don't remember exactly when it was.

Q. How long before you were laid off?

A. Well, it was all the time I started to work. I didn't hardly ever have regular work.

Q. Just before you were laid off, did you suddenly increase your production?

A. I just don't remember whether it was just before I was laid off or not.

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[469] NELLIE WOOD

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[462] Q. What was said there?

A. I don't remember. They just told us they was laying us off.

Q. Were you told then why you were picked to be laid off?

A. That he didn't have enough to fill it—to give us all work. That he had to cut production.

Q. Did he say why you, particularly, were picked, rather than somebody else?

A. I didn't ask; no, sir.

[483] Q. Did they tell you?

A. No, sir.

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[487] Q. That's what your main job was, and then you did other things when there wasn't any overflow.

A. Yes, sir.

Q. There were times that you worked in the pants plant. I believe you stated you made a request of your supervisor that you be allowed to go over there and work.

A. Yes, sir.

Q. That was because there wasn't enough work at the coat factory.

A. Yes, sir.

Q. To keep you busy and make enough money, so you asked to be permitted to go over there and work.

A. Yes, sir.

* * * * * * *

[488] Q. They just told you what was going to be in it, and asked if you would put your name on it; is that right?

A. Yes, sir.

Q. Did you sign anything giving them authority to put your name on it?

A. I signed that to my sorrow.

[489] Q. It wasn't that letter that you saw later in Morris' hand?

A. No, sir. I signed just a piece of paper. Just the names on it.

Q. That piece of paper was just authorizing them to put your name on it.

A. Yes, sir.

Q. Didn't they tell you if you would sign that, that you couldn't be fired?

A. Yes, sir.

Trial Examiner: Is that why you were sorry?

The Witness: No. I was sorry from the start. I didn't want to hurt my employer. I liked him. And I am still not hurt with him for nothing he done.

Q. (By Mr. Thompson) At the time that you were up at the pants plant to talk to Mrs. Spradling I believe you stated you had a conversation with Mr. Hughley?

A. I did.

Q. Nothing at that time was said at that time about the union either way, was there?

A. No, sir. Not between me and him.

Q. Do you recall when it was that you went down to talk to Morris about putting—being put back to work?

A. It was on a Friday, I believe. I don't remember the exact date. But it was somewhere around the middle of June.

Q. Before you went back to work?

[490] A. Yes, sir.

Q. Did you actually talk to Mr. Joy at that time?

A. Yes, sir.

Q. That's Mr. Joy who is here in the courtroom.

A. Yes, sir.

Q. And asked you the questions a while ago.

A. Yes, sir.

Q. And didn't you tell him at that time that you didn't want to press your case?

A. Yes, sir.

Q. That you wanted to get out of it?

A. Yes, sir.

Mr. Thompson: No further questions.

Mr. Joy: I have none.

Re-Direct Examination.

Q. (By Mr. Sheinkman) When you went to see Mr. Morris Sharff in June did you say that you were sorry that you signed the card with the Union?

A. Yes, sir; I was sorry. I had went to Mrs. Sarah Broome before then and asked to come out of it.

Trial Examiner: When was that?

The Witness: I don't remember, but it was the Thursday the snow was on the ground.

Trial Examiner: That was after you were laid off?

The Witness: Yes, sir. I wasn't hurt at Mr. Morris the [491] day I was laid off. I was kind of hurt with them because I needed the work and I went and tried to find them that afternoon, and I couldn't find them Saturday—

Q. (By Trial Examiner) Who did you go to find?

A. Any of the union organizers. And I didn't find them. They come to my house Saturday, now—

Q. (By Mr. Sheinkman) When you went back in June you told Morris you were sorry you signed the card?

A. Yes, sir.

Q. And you didn't want to hurt him.

A. Yes, sir.

Q. Did you tell him you wanted to pull out of the case?

A. Yes, sir—I told Sarah Broome that.

Mr. Thompson: I object to any further leading of this witness. He has led the last four questions.

Trial Examiner: Yes; don't lead the witness.

Q. (By Mr. Sheinkman) Did you say anything to Morris when you spoke to him the middle of June?

A. I told him I had asked to come out of it.

Q. Did you say anything to him about the Board case; about the Labor Board case?

A. He said I had a complaint against them, and I told Mr. Joy when I come out there that I had done come out of it.

Q. Did he say anything to you about saying something to Mr. Joy about it?

[492] A. He told me to wait and talk to Mr. Joy when he got there.

Q. When did he say you were re-ihired? Before you told him you were pulling out of the union, or after?

A. After I went back the Saturday before the 23rd.

Q. Did he tell you you had a job?

A. No, sir.

Q. When did he tell you you had a job and could come back to work?

A. I went back the Saturday before the 23rd on Monday.

Q. You saw him in his office; is that right?

A. Yes, sir.

Q. And you told him, you stated on cross-examination—

Mr. Thompson: I object again to the leading.

Trial Examiner: The witness didn't understand the question. He is trying to have the witness understand the question.

Q. (By Mr. Sheinkman) You told him you were sorry you pulled out of the Union.

A. No. I wasn't sorry I pulled out of the Union.

Q. You weren't sorry.

A. No, sir.

Q. You are sorry you signed the card.

A. Yes, sir; I am sorry.

Q. For the Union.

A. Yes, sir. I am sorry.

Q. When did you ask him for the job; before or after you [493] said this?

A. After, I believe.

Trial Examiner: Why are you sorry you signed the card for the Union?

The Witness: Because they told me I couldn't lose my job, and I was afraid I might have to work for Morris again some day—

Trial Examiner: And you thought if you belonged to the Union, you couldn t work for him; is that right?

The Witness: I don't know, now.

Trial Examiner: I want to know what you felt.

The Witness: Well, I felt like they was doing him dirty.

Trial Examiner: You felt like if you belonged to the Union, you couldn't work there?

The Witness: Not then.

Mr. Thompson: I object to the Examiner's question.

Trial Examiner: Overruled. You may continue.

Q. (By Mr. Sheinkman) When did Morris tell you you had a job? After you saw Mr. Joy or before you saw Mr. Joy?

A. It was the 21st of June, I believe he told me I had the job.

Q. Did you see Mr. Joy that day?

A. No, sir. I went back to see Morris on Saturday before I went to work there Monday, the 23rd.

Q. Wasn't that the day he told you Mr. Joy was coming?

[494] A. No, sir.

Q. When did he tell you Mr. Joy was coming?

A. The day I saw Mr. Joy. I believe it was around the 13th, I won't be for sure.

Q. Did you see Mr. Morris first, that time?

A. Yes, sir.

Q. Did you talk—did you discuss the union that time?

A. Nothing only what I told you.

Q. When did he tell you you had a job; which day; the 13th or 21st?

A. The 21st.

Q. After you had spoken to Mr. Joy?

A. Yes, sir.

Q. Did he tell you to say anything to Mr. Joy at that time?

A. No. He didn't tell me to say anything.

Q. Did you report back to him you had spoken to Mr. Joy?

A. He was in Mr. Joy's presence when I talked to him.

Q. And what did you tell Mr. Joy at that time?

A. I told him I had tried to get out of the Union and I didn't want to press no charges.

Trial Examiner: Was that after—Was it after that you were told you would get a job back?

The Witness: Yes, sir.

Mr. Sheinkman: No further questions.

Re-Cross-Examination.

[495] Q. (By Mr. Thompson) Mrs. Wood, Morris didn't tell you he would give you a job if you would pull out of the Union, did he?

A. No, sir; he did not.

Q. And your getting a job, as far as you know, didn't have anything to do with your pulling out of the Union; did it?

A. No, sir.

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[497] MARY ALICE McWATERS

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[507] Q. Was anyone else present besides the names who are on the letter?

A. I don't recall whether there was, or not.

Trial Examiner: The ones whose names were on the letter, were they all present at the time?

The Witness: Yes, sir; they was.

Trial Examiner: And did they all authorize their names to be put on the letter?

The Witness: Yes, sir; they did.

Trial Examiner: And you heard that?

The Witness: Yes, sir; I did.

* * * * * * *

[511] Q. Now, Mrs. McWaters, referring to a letter which you've been shown and which has been called General Counsel's Exhibit 6 A and B—the letter, I think, is B, which is a letter and an envelope—

Trial Examiner: The letter is 6 A, the envelope is B.

Q. Yes, sir. Nobody from the Company told you to sign that letter, did they? No official of the company, no management personnel connected with the company told you to sign that [512] letter, did they?

A. No, sir.

Q. As far as you know, until that letter was brought out in Court here, nobody—the management of this company never knew anything about it, did they?

A. No, sir.

Mr. Sheinkman: I object to the form of the question. Before I raise my objection—I thought I heard something and I would like to get a rephrasing of the question.

Mr. Thompson: Would you read that question back, please?

(Last question read back by reporter.)

Trial Examiner: Rephrase the question, please.

Q. Mrs. McWaters, as far as you know, no official, superintendent or member of the supervisory staff of the Walton Manufacturing Company was aware of this letter

which is General Counsel's Exhibit 6 A until it was brought out in the court room today. Is that correct?

A. Yes, sir. That is correct.

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[516] Trial Examiner: Now, tell us all the reasons.

The Witness: Another reason I didn't think that that was what I wanted. It was just a disturbance and that wasn't what [517] I wanted.

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[518] Trial Examiner: I withdraw the last question.

Did you ever see a letter on the bulletin board similar to General Counsel's Exhibit 9?

The Witness: Well, if it was there, I didn't read it.

Trial Examiner: Well, was there any discussion of this letter, General Counsel's Exhibit 9, in connection with the preparation and signature of General Counsel's Exhibit 6 A? This letter. In other words, I don't know whether you understood me. In the preparation of this letter and your decision to sign this letter, to authorize your signature to this letter, was there a discussion by any other girls of this notice?

The Witness: That could have been what brought it about. But I didn't read that letter.

Trial Examiner: Now, was it discussed. That's what I'm asking.

The Witness: No. Not with me.

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[519] NELLIE HOOD

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[523] Q. Will you tell us as best you can what you remember?

A. Well he said that he was speaking for his father and brother and not for himself. And that if the union came in he would have no part of it. That he did not have any stock in that company and he would not have any if the union came in.

Q. Remember any more?

A. No, sir. I don't remember.

* * * * * * *

[533] Q. You don't maintain that your leaving had anything to do with the union—your second leaving. Is that correct?

A. No, it didn't.

Q. Mrs. Hood, the second time that Mr. Carter discussed—made the statement to you that you referred to, when he said you had told him a story. What did you do after he said that?

A. I laughed and walked off.

Q. You just sort of brushed it aside and walked on away. You didn't pay any attention to him?

A. No.

[534] Trial Examiner: You mean no; you didn't pay any attention.

The Witness: To him saying it; no.

Q. (By Mr. Thompson) At the time of the lay-off the question was raised as to whether it was because of the letter out on the bulletin board, or the union, wasn't it?

A. I believe it was.

Q. And what was said?

A. Well, they said the letter out on the board had nothing to do with us being laid off.

Q. The letter that you are referring to is General Counsel's Exhibit 5 that was shown to you a few minutes ago, with a list of people's names on it.

A. Yes.

Q. How many occasions do you recall Mr. Carter making reference to Lucille Yancey's work?

A. There were quite a few times.

Q. Will you give me the date of one of them?

A. No; I cannot.

Q. Can you give me the amount of—the month of one of them?

A. No; I cannot.

Q. Would you give me your best estimate as to how many times?

Trial Examiner: Mr. Sheinkman, I don't want you to do [535] that again. No signals to any of the witnesses, no matter how well intentioned they are. I am sure you didn't intend to do anything improper. I will run this hearing and if this witness isn't talking is talking about, or not talking about matter she is not required to talk about, I will be the one to decide that.

Q. (By Mr. Thompson) Would you give me your best estimate, please, as to how many times you heard him say that?

A. I don't know how many times, or near how many times, but it was the time I was working there, on and off the whole time I was working there.

Q. The whole time you were working there. And he never said anything about Bonnie Hamilton's work, did he?

A. No, sir.

Q. But he was always talking about Lucille Yancey's work.

A. Yes; he was.

Q. Is that your testimony?

A. Yes; he was.

Q. Have you done work similar since you came back there that you did before you were laid off?

A. Yes.

Q. Have you come in contact with the same operators that you came in contact with before?

A. Yes.

Q. Is the Lucille Yancey you are referring to still there?

[536] A. Yes; she is.

Q. Who else is there doing that type work?

A. No one but her. Except when they get behind. Lonabelle Camp helps out.

Q. And Lucille Yancey is doing the work that she and Bonnie Hamilton were both doing before, except when they get behind; is that right?

A. That's right.

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[538] Q. (By Mr. Thompson) Mrs. Hood, it's your testimony, is it [539] not, that Lucille Yancey is performing the operation, for whatever quantity is coming through the plant, that she and Bonnie Hamilton performed prior to the lay-off, except when they get behind; isn't that true?

A. I would say so; yes.

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RUTH BROOKS.

a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

Direct Examination.

* * * * * * *

[541] Q. (By Mr. Joy)

* * * * * * *

[542] And then Morris asked me how would I like to go up to the pants plant to work.

Q. What did you say?

A. I told him that I didn't know. I hadn't thought about it.

Q. Now when did you go to work for Loganville Pants Company and how did that happen?

A. Well, after I told him that I hadn't thought about going up there to work, he said, "Suppose you report up there to work in the morning," and I didn't say that I would or I wouldn't. I turned and walked off. And I did not go the next [543] morning.

Q. Go ahead and tell what happened?

A Up in the day I called Mr. Hughley and I asked him what it was all about. That they had told me to come up there and work when they had told us that no one would be transferred to the pants plant whatsoever.

And he said, "I wish you would come down here. I would like to talk to you."

Q. When you say you called Mr. Hughley, where was he?

A. He was in the pants shop.

Trial Examiner: Where were you?

The Witness: I was at home.

Trial Examiner: You mean you didn't go to work that day?

The Witness: No; I didn't.

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[559] Q. (By Mr. Joy) Mrs. Brooks * * * [561] Was that a very vigorous discussion?

A. Well, I would think so.

Q. Was there loud talk?

A. Yes.

Q. Did it continue for any length of time or was it for just a moment?

A. Just a few minutes.

Q. What brought it to an end?

A. I believe Mr. Hughley walked in the door.

Trial Examiner: Did you see him?

The Witness: Yes, I saw him.

Trial Examiner: Then you don't believe it, you know it.

Q. How long after that was it that he made his statement that you have already testified to about having heard enough union talk?

A. When the bell rung for us to go back to work. After everyone had started he had the machines cut off and then he told us that he wanted us to know that he had heard enough about the union. That he was tired of it and that he was working trying to get contracts for us to have work. And if that's the way we were going to do, he was through with us.

Q. Now, how long between the time he came in while you were discussing—talking with Sarah Irwin before he made that statement?

[562] A. Just a few minutes because we all just turned and went to our machines.

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[578] Q. (By Mr. Thompson) Mrs. Brooks, at the time this Christmas party was held, you were employed by the Loganville Pants Company, were you not?

A. Yes.

Q. Where were you prior to the commencement of the party?

A. I was at the Loganville Pants Shop.

Q. Now, the party for the Loganville people, the Loganville Pants Company people, started out at the Loganville Pant, did it not?

A. Yes, we had our own Christmas tree.

Q. And you had your own drawing for presents?

A. Yes.

Q. And it was just the people that worked for the pants company, is that right?

A. Yes.

Q. And did you also have your own refreshments?

[579] A. We were served punch.

Q. All right. Now, after that, you went on down to the Walton Manufacturing Company Plant?

A. Yes.

Q. And you joined the party that was going on there?

A. Yes.

Q. And that's where you got your ham?

A. Yes.

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[582] Q. Now, when you were working down at the Walton Manufacturing Company before you went up to the pants plant, did you ever have any makeup?

A. I did.

Q. Did you have a good bit of makeup?

A. Yes.

Q. Did you have difficulty doing the work that you were doing down there?

[583] A. At times.

Q. Did anybody ever say anything to you about it?

A. No.

Q. Nobody ever said anything to you about it?

A. No.

Q. Did you ever say anything to anyone else about it?

A. Yes.

Q. To whom did you say something?

A. I talked to my supervisor about it.

Q. Who was your supervisor?

A. Grace Higgins.

Q. And what did you tell her?

A. I told her about the different places that I had worked before and that I had always made production everywhere I worked until I came there. And there was something wrong somewhere why I couldn't make it.

Q. Now, didn't you also talk to Morris Sharff about that?

A. Yes, I talked to Grace another time and she said, "I can't understand why you can't make it.' They told me this was a good paying job.

Q. And then you talked to Morris Sharff about it, too, didn't you?

A. Yes.

Q. What did he say?

A. I went in to see him one morning and he was back there [584] at my machine and we talked about my operation and I told him that I wasn't satisfied with it. And he said, "Frankly, I'm not either.

Q. Now, when you were told to go up to the other plant and report—you remember testifying to that?

A. Yes.

Q. Why didn't you go up there the next day?

A. Because I was with Lucille Yancey the morning that she asked Arthur Sharff about any of the employees being transferred to the pants department. And he said that no one would be transferred whatsoever. And after I had talked with him about—he told me that I either—I talked to Morris, and he told me that I either had to get my production or else. I thought when he told me to go to the pants shop that it was a means of shoving me out of the plant.

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[586] ROSE L. TRIBBLE.

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[588] Q. (By Mr. Thompson) Mrs. Tribble * * * At the time you were working at Walton Manufacturing Company nobody ever said anything to you—none of the man-

agement people ever said anything to you about a union, did they?

A. No, sir.

Q. And you never heard Morris Sharff or Arthur Sharff say anything about closing the plant if a union came in, did you?

A. No, sir.

Q. But you did hear the speeches Morris Sharff made.

A. I attended the speeches; yes. I was there.

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[592] RUTH BROOKS.

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[595] HESTER LOU McCART.

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[600] Q. (By Mr. Thompson) About how much were you making per hour, or per week?

A. When I quit?

Q. Yes. When you quit.

A. Well, I had made $65 a week. If I had regular work.

Q. How much did you make during an average week during this period of a little over a year that you are speaking of; somewhere between 50 and $60?

A. I would say $50 on an average for the whole year.

Trial Examiner: How much did you make around January, 1958?

The Witness: I guess I was making good, at that time.

Trial Examiner: Around the time this lay-off took place. How much were you making at that time?

The Witness: $1.40 an hour. I believe it was, when they [601] took this girl—

Trial Examiner: Talk louder.

The Witness: At the time when Pearl was laid off, just before she was laid off, they put me to anchoring the collar and sewing the lining to the back of the coat, and Mary Alice Winslett finished the collar down and they give me my average of $1.40 an hour then.

Q. (By Mr. Thompson) Was Mary Lou Partain making the same production you were?

A. No. Mary Lou was a very slow operator.

Q. Was Pearl Coker making the same production you were?

A. No. She and Mary Lou were practically on the same basis, I think.

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[603] Q. (By Trial Examiner) * * * How long after the lay-off?

A. I don't know that. But I do know she went to Atlanta and went to work for some linen supply company.

Q. A week, a month, two months? Approximately.

A. Approximately? She went to Atlanta and got a job.

Q. You mean shortly after the lay-off?

A. It wasn't a lay-off. It was just a slack time. She was just off.

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[605] RUNELLE DANIEL.

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[606] Q. Do you remember everything that was said by Mr. Sharff?

A. No; I am afraid not.

Q. Do you remember anything that was said?

A. Well, he told the ladies, and all, that the union was trying to come in, and they could join if they wanted to, and make up their own mind. He couldn't do either one; not to tell them to join, or not. In a very nice way.

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[608] LELA BEAVER.

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[625] Q. Those girls that you saw up there who were regularly employed at the Walton Manufacturing Company Coat Plant, were only there just a few occasions, weren't they?

A. That's right.

Q. And they didn't come there and work regularly, did they?

A. No, sir.

* * * * * * *

[626] Q. Did Mr. Hughley ever say anything to you individually about unions?

A. No, he didn't.

Trial Examiner: The only time Mr. Hughley talked to you about unions was when he spoke to everybody at the same time?

The Witness: That's right.

Q. And Edna Atha never said anything to you individually about unions, did she?

A. Well, I asked her one day, "Reckon we'll ever get better work, more than two or three days a week." She said we might if the union would leave us alone. But she never said anything else other than that.

Trial Examiner: Was that two or three days work a week?

The Witness: Yes.

Trial Examiner: Is that all you were getting?

The Witness: Three days, three and a half, sometimes four.

Trial Examiner: When was this?

The Witness: Well, it was December and January, the best I can remember.

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[631] Trial Examiner: It will be received.

(The document heretofore marked Respondents' Exhibit No. 2 for identification, was received in evidence.)

Trial Examiner: May I see it, please? (Document handed to Trial Examiner.)

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Q. (By Mr. Thompson) Mrs. Beaver, I call your attention again to page 3 of Respondents' Exhibit 2, the first sentence. I would like, if you will, please, ma'am, for you to read that sentence to yourself.

A. "Mr. Hughley never said anything to me individually about the union. Neither did Edna Atha."

Trial Examiner: Now do you have a question?

Mr. Thompson: This has been received, I believe, has it not?

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[642] NANCY WILLIAMS.

* * * * * * *

Direct Examination.

Q. (By Mr. Joy) Mrs. Williams, did you ever work for Loganville Pants Company?

A. Yes, sir.

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[644] Q. Did you ever hear Mr. Hughley talk about the Union?

* * * * * * *

Q. Will you tell what happened? What he said about it?

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A. He told us he would not have any union talk in the shop.

Q. (By Mr. Joy) Do you recall anything else he said at that same time?

A. He said that he was trying to get us more contracts, more work, and if we were not interested, he would not try.

Q. I see. Had anything happened just before Mr. Hughley made that statement that caused him to make it?

[645] A. Some of the girls had had a little misunderstanding and they did not go right to work at the time they should have, and he came in and the girls were arguing, and they were not at their machines.

Q. Now who were the ones arguing?

A. Ruth Brooks and Sarah Irwin.

* * * * * * *

[646] Trial Examiner: Were they arguing about the union?

The Witness: Yes, sir.

Q. You may have already covered this. Was Mr. Hughley in the room during the time that any of the argument was going on?

A. He was not. He came in—

Q. He came in while the argument was going on? Will you speak please? The reporter can't record your nodding very well.

A. He came into the room during the argument.

* * * * * * *

[647] Q. I see. When was that, approximately?

A. Latter part of January.

Q. Will you tell what happened on that day?

A. Mr. Hughley told us at the plant that the plant would be closed. That was the last day.

Q. You say he told "us". You mean he was speaking to the entire group, or to a few individuals?

[648] A. To the plant.

Q. What else was said?

A. He said that some of the machines would be carried down to the new plant and that some of the girls would have jobs, but there would not be enough work for everyone. And when we out at five, I went and asked Mr. Hughley about my job because I was not to go down to the other plant. And he thought that there would be plenty of sergering for me in a few days.

Q. Did he give you any instructions or information about a blind for the work?

A. He said that we would be off from work one day. Some of the girls would go in the following day, and for the rest of us to check in a day or two. He was not sure what would be there for us.

Q. Did he tell you where to check or with whom to check?

A. He told us to go down to Walton to see Morris.

Q. Morris who?

A. Sharff.

* * * * * * *

[649] Q. (By Mr. Joy) * * * I see. And who did you talk to, if anyone, there at the Walton Plant?

A. I talked to Morris Sharff.

Q. What did he say about—

A. He told me that the work was not lined up and he was not sure whether there would be plenty of work for me and that he would let me know. He took my name, my telephone number and said that he would call me.

Q. Did he call you?

A. No, sir.

Q. Did you have any further discussion with him about it?

A. I went back at a later date and he said there was just not enough work.

Q. Can you place the approximate later date? About how long?

A. About a week.

Q. About a week after the first one?

A. Yes.

* * * * * * *

[651] Q. (By Mr. Thompson) * * * At the time Edna Atha made the statement which you have attributed to her, she didn't ask you whether you had joined the Union, or whether you had signed a card, did she?

A. No, sir.

Q. As far as you know she didn't ask anybody else whether they had signed a card.

A. No, sir.

Q. As a matter of fact you didn't overhear what she asked anybody else.

A. No, sir.

Q. Other than that one time Edna, nor Mr. Hughley, ever made any statement about unions, did they?

A. No, sir.

Q. At the time this argument took place, just before Mr. Hughley's little talk, the bell had rung?

A. Yes, sir.

[652] Q. While the argument was going on, and they continued the argument.

A. That's right.

Q. And Mr. Hughley walked in somewhere along about that time; is that right?

A. Yes, sir.

Q. This girl Sarah, who was one of the participants in the argument, was a pretty loud talker, wasn't she?

A. Yes, sir.

Q. And they were both talking pretty loud while this was going on?

A. Yes, sir.

Q. Do you recall the speech that Morris Sharff made at the pants plant?

A. Not any—No, sir. I recall the speech.

Q. You recall that he made a speech.

A. Yes, sir.

Q. And don't you recall that he made the statement that they were not going to close the plant?

A. Yes, sir.

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[654] PAULINE SPRATLIN.

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[657] A. Well, they just told us that they wasn't able to pay the expense there; that we were to be moved.

Q. Who told you that?

A. Well, Mr. Hughley.

Q. And when you went to Walton Manufacturing plant to work, did you make out a new application there?

A. No, sir.

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[658] BESSIE SATTERFIELD.

* * * * * * *

[659] Q. Did you quit, or were you laid off?

A. I quit.

Q. Did you ever sign a card for the union which was attempting to organize employees?

A. Yes; I did.

Q. Did you ever attempt to withdraw from the Union?

A. Yes, sir.

Q. What method did you use for attempting to withdraw?

A. Well, me and five other ladies—

* * * * * * *

[660] A. (Continuing) Me, and five other ladies, got together and discussed that we wanted our name withdrawn from the card. So there was a notice up on the board and we got the address up there.

Trial Examiner: There was a notice up on the board to what effect?

The Witness: That said we could have our name withdrawn from the card if we wished to. To write to this place. And we did.

Mr. Joy: May I see General Counsel's Exhibit 9, please?

Q. (By Mr. Joy) I show you General Counsel's Exhibit 9, which is a copy of a letter. I ask you if that's the letter you refer to on the bulletin board.

A. Yes, sir; I believe so.

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[666] FLAUDIE ATHA.

* * * * * * *

[668] Q. And will you tell the conversation, as best you can recall it, that took place?

[669] A. Well, I asked Morris if there was any chance of me coming back to work. And he said that he didn't know, that they didn't have anything for me to do. And told me to call back on Friday. That was January the 3rd.

Q. Did he say who to call?

A. Call him. Call Morris Sharff. I called back January the 3rd and talked to Morris again. He still said the work was slack, that they didn't have anything for me to do. But to keep in touch with him.

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[672] EVELYN HUDSON.

* * * * * * *

[673] Trial Examiner: And then you worked on other jobs for about a month, is that right?

The Witness: Well, it was between two weeks—two or three weeks—or probably a month. I can't say for sure.

Trial Examiner: All the rest of the time y u were working on this job of tacking and turning sleeves?

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[678] And Murphy told us that at that particular time, that [679] we was going to have to be laid off due to the lack of work. And I asked Morris about my job—why I was being laid off. And asked him if it was due to the joining the union. He says, "No, the union has nothing to do with it." He says, "The thing of it is, I don't—we don't have enough work—I can't get enough work to keep you busy all the time." And says, "We are going to have to let you go." I said, "Well, Morris, I am the only one that does my job. Who is going to do it after I leave?" And he said, "That job is very simple and very easy and will be—anybody can do it. And it will be divided among the other four sleeve girls." Which I found out later, only Bonnie Thompson and Grace Barnes has been doing my job.

* * * * * * *

[681] Q. In your opinion, which of the operations is the most simple?

A. Sewing wiggin.

Q. Why? Why do you reach that conclusion?

A. Well, it's just one straight seam, just about that long.

Q. That doesn't show up in the record.

A. About four inches—four or five, maybe six inches long. And the material is laid flat down on top of the wiggin.

Q. All right. And how does that compare with the operations that you were doing as a regular thing?

A. Of tacking and turning sleeves?

Q. Yes.

* * * * * * *

[683] Trial Examiner: And how about your job in respect of the work of Regina Hall?

The Witness: Well, I never was able to do much with that job.

Trial Examiner: You mean Regina Hall's job was more complicated than yours?

The Witness: Well, it wasn't so much more complicated, but still, I just couldn't do her job like I could do mine.

Trial Examiner: And have you tried her job?

The Witness: I have tried her job.

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[685] Q. Now, after you went back to work, did you work only on the making of sleeves?

A. That is right.

Q. And are you still employed?

A. No, I'm not.

Q. What happened?

A. Well, I think it was the 18th of August, if I am not mistaken, that they called me in the office and told me that morning that they were going to have to let me go because I could not make production on making the sleeves. And I told Murphy and Grace Higgins—in fact I told Grace Higgins before Murphy, that I had tried—that she knew I had tried to make sleeves before I was laid off in January and I could not make them.

* * * * * * *

[686] Q. Had you ever spoken to her about it before. The fact that you were being put on an operation that you had not been able to do?

A. No. I didn't.

Q. Not until the day you were discharged?

A. Not until the day I was discharged.

Trial Examiner: When you told her that you thought they put you on that job so that they could fire you, what did Grace Higgins say to you, if nything?

The Witness: Well, there in the office, she just agreed that I could not—that I could never make the sleeves.

Trial Examiner: That's not the question I asked you. The question I asked you, Mrs. Hudson, was, did you testify to the fact that yo· told Grace Higgins that the reason you felt they put you on this job of making sleeves was because you couldn't [687] make sleeves and in doing so, they would have an opportunity to fire you again. Now, what did Grace Higgins say, if anything, after you said that to her?

The Witness: Well, not any· ·ng.

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[695] Q. Who was doing the work, the operation that you did before the lay-off after you went back sewing sleeves?

A. Grace Barns and Bonnie Thompson.

Q. Is that all they were doing? Did it take both of them to do what you had done before you left there?

A. No. They did that along with their job.

Q. Then they were still doing the same thing that they did before you left, and in addition to that they were

doing the operation that you had done around there, weren't they?

A. That's right.

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[696] Q. You signed an authorization to the Union authorizing them to use your name in that letter; isn't that right?

A. That is right.

Q. And you had never seen the letter that Morris had in his hand until the time Morris showed it to you; is that correct?

A. That's right.

Q. At the time Morris showed you that letter you related to us a certain conversation you had with him. You don't recall the exact words that were used, do you?

A. No; I do not recall the exact words, but—

Q. That answers my question. Had you ever done any work in the needle trades industry—

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[697] Q. What place was that?

A. That was at Tacula Sportswear.

Q. Did you make your production there?

A. I had been making it, and they told me they were going to have to let me go, because I had a five-dollar make-up one week.

Q. Did you ever work any other place in the needle trades industry?

A. Yes; I have. I worked in Duluth. I made travelling bags there.

Q. Did you ever work at Red Fox?

A. I did.

Q. Where is that located?

A. That's on 78 Highway out from Monroe towards Atlanta.

Q. Did you have any trouble with your production there?

A. I didn't make it.

Q. Were you discharged from that job because of your failure to make production?

[698] A. Yes; I was.

Q. Now before you were put on the job which you have described as being the work that you were able to do, and which you did successfully, I believe you stated that you had something to do with darts; is that right?

A. Yes. I sewed in some darts at the beginning.

Q. Did you have any trouble with that?

A. Well, I don't remember.

Q. Isn't it true that you didn't do too good at that?

A. Well, probably—I don't think I did. For I didn't stay on it.

Q. Then you were changed around after that to several other jobs before you ended up in the sleeve section; isn't that right?

A. Yes.

Q. And the job that you have described here in detail is tacking and turning sleeves; is that right?

A. That's right.

Q. Would you agree with the statement that this is a plain sewing job, with a single-needle machine?

A. That's right.

Q. After you went back in June of 1958 did you have any trouble making your production?

A. After I went back in June 1958 making sleeves I did not make my production.

[699] Q. As a matter of fact didn't you have substantial make-up pay; sometimes as much as half of your pay?

A. Yes.

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[700] LELIA HAULK.

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[715] BESSIE SATTERFIELD.

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[720] Trial Examiner: Now, I have a specific question to you. Were you discussing this letter that you had seen on the bulletin board?

The Witness: Well, we had talked about it. We hadn't seen the letter then. We had talked about it the day before—about writing. And wondered if we could get an address that we could write to this place to have our names taken off.

Trial Examiner: That was the day before this was on the bulletin board?

The Witness: That's right. And then the next morning, one of them said, "Well, I'll bring an envelope." The other said, "I'll bring a stamp". And I said, "Well, o.k., then." And we just all agreed to get together at lunch and fix the letter up and write it.

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[721] Exhibit 9, that was up on the bulletin board. Is that right? And you saw it, did you?

The Witness: Yes, we did.

Trial Examiner: And did the other girls see it?

The Witness: Yes, they did.

Trial Examiner: And did you discuss it?

The Witness: Yes. I says, "Well, how are we going to write it?" One of them spoke up—I don't know which one. Said, "Well, it's on the board. We can get the address from the board."

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[722] Trial Examiner: And what made you sign the card?

The Witness: Well, because I just didn't—I felt like if Morris was able to run a business of his own, why, it was his privilege to pay what he wanted to pay and I was satisfied with what I was making.

Trial Examiner: Is that what you felt at the time you signed the card?

The Witness: That's exactly the way I felt.

Trial Examiner: You're not listening to my question, now. I'm talking about at the time you decided to sign that card for the union. You signed a card for the union a month before you wrote this letter. Now, at the time you signed the card, I wanted to know why did you do that?

The Witness: Well, after I had signed it, I—

Trial Examiner: I'm talking about not after you signed it—at the time you signed it.

The Witness: Well, at the time I signed it, I never did tell them that I was for the union. Before I knowed it, she had my name signed—had me signing my name and I didn't know what I was signing.

Trial Examiner: You didn't know what you were signing?

The Witness: I didn't.

Trial Examiner: You didn't want to join the union?

The Witness: I did not want to join the union.

Trial Examiner: And then what made you decide a month [723] later to write this letter?

The Witness: Well, I just didn't want to belong to the union.

Trial Examiner: Why didn't you write this letter the day after you signed it? When you decided that you didn't want to sign for the union.

The Witness: Well, see, the more I studied about it, the worse I felt about it. And I just kept putting it off and kept putting it off and I didn't know how to go about it after I had signed it.

Trial Examiner: Did you attend any of the union meetings?

The Witness: I did not.

Trial Examiner: Did you sign it before the union meetings were held, or after the union meetings were held?

The Witness: They hadn't had no—helt no meetings when I signed this card.

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[724] Trial Examiner: Now, just answer the questions you are asked.

Did anybody suggest that you withdraw from the union?

The Witness: No, they didn't.

Trial Examiner: Mr. Sharff?

The Witness: No, they didn't mention it to me.

Trial Examiner: And this letter had nothing to do with it, either. Is that right?

The Witness: That's right.

Trial Examiner: It was your own decision made just the day [725] that the letter was put on the bulletin board. Is that correct?

The Witness: That's correct.

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[727] Mr. Joy: Yes.

Mr. Thompson and I have agreed to stipulate that this document consists of notes made by Mr. Prosterman, and that if Mr. Prosterman was called to testify, he would testify that it was prepared some time in December, 1957.

Trial Examiner: Notes relative to what?

Mr. Joy: Notes relative to the selection of employees for layoff.

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[775] I. R. PROSTERMAN.

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[779] The Witness: Charlotte Finley did the operation known as bottom lining basting. Pauline McGee did the operation known as bottom hem basting. At the time of the lay-off Charlotte Finley took over Pauline McGee's work.

Sometime later, exactly when, I cannot say. Pauline McGee's former job, the bottom hem basting, was eliminated as an operation. It was combined with another operation called edge basting. At that time it left Charlotte Finley with insufficient work.

As a result thereof Charlotte Finley—let me explain further. You also mentioned Geneva Harris. Geneva Harris' work, in the meantime, was increased; not sufficiently to [780] give her full time work at that job, which

was known as bottom felling. Therefore, the job vacated by Ida Harper was accomplished in part by Charlotte Finley, in part by Geneva Harris, in part by Mary Alice Winslett, and several other operators.

Q. (By Mr. Joy) Now in connection with the rearrangement of work after laying off certain employees, did you assign other employees to new operations?

A. In certain instances operators remaining within the section absorbed the work done formerly by the people who were laid off.

Q. Isn't it true that you also transferred some from entirely new operations?

A. I don't understand the question. Transferred them from entirely new operations?

Q. From one operation to an entirely new operation.

Q. (By Trial Examiner) At the time of the transfer — of the lay-off, when these other people were laid off, did you also, in addition to laying off some people, transfer other employees whom you retained to different operations than they had been doing; entirely different operations? I think that's Mr. Joy's question.

Mr. Joy: Yes, sir.

A. It is possible, but I don't recall any particular instance or the reason therefor.

[781] Q. (By Mr. Joy) Wasn't that true with respect to Mary Barnes? Was she not transferred from sleeves to pants work?

A. Mary Barnes was laid off—

Trial Examiner: Just answer the question, Mr. Prosterman. You were asked whether Mary Barnes was transferred from sleeves—was it—to pants work?

Mr. Joy: Yes, sir.

A. The answer is no.

Q. (By Mr. Joy) Did she work on sleeves before the lay-off?

A. Yes.

Q. And was she recalled very shortly after the lay-off?

A. What do you mean by "very shortly"?

Q. Within a few weeks; two or three weeks, four weeks?

A. Well, I would say approximately four to six weeks I don't have the exact date.

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[790] Q. (By Mr. Thompson) Mr. Prosterman, you testified a little while ago as to the factors you took into consideration in determining which employees to lay off and which ones to retain. Will you explain, please sir, where the make-up work came into play, in so far as the production factor was concerned?

A. Well, make-up, in considering the amount of make-up on an [791] employee, it was only a measure of his production, you might say, in reverse. The employee who had the most make-up had the least production. That is the only way I can bring out the fact that make-up was a factor.

Q. Then to that extent it was taken into consideration by you—or was it?

A. Well, as make-up; no. As make-up; no.

Q. When did you take it into consideration?

A. Well, it wasn't taken into consideration. The amount of production was taken into consideration.

Q. Now how does make-up relate to production?

A. The operator who produced the least had the most make-up.

Q. Then you were looking at the other side of the ledger; rather than looking at the deficiency that would come under make-up, you were looking for the production.

A. That's right. I was looking for the operator who could produce the most and had the best potential for future production.

Q. What do you mean by the best potential?

A. The operator, which in my judgment would prove to be the best operator in the long run. Produced the quality of merchandise, with little or no make-up.

Q. Did you have any set rule at all which covered all of the jobs, in so far as make-up was concerned?

A. There was no set rule about any of the jobs, as far as [792] make-up was concerned.

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Q. Then after Pauline—I mean Charlotte Finley got through doing it, did anybody else do it?

A. No. It is very possible that while Charlotte Finley was learning the operation, that we may have had another operator also assisting in order to maintain the production until Charlotte Finley got to the point where she could handle it all, but I did say prior to that time, prior to the time—or not prior to the time, but during the time we eliminated Pauline McGee's operation, or the operation which she had done.

Q. In other words—did you eliminate the work that was done?

A. That was transferred into—and combined into another operation, known as edge basting.

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[815] ARTHUR SHARFF.

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[823] Q. Do you know a man by the name of Prosterman?

A. Yes, sir.

Q. Did—does he have any connection with the Walton Manufacturing Company?

A. He is employed there.

Q. Has he ever had any connection with the Loganville Pants Company?

A. No, sir.

Q. What is Mr. Prosterman's position with the Walton Manufacturing Company?

A. He is our head supervisor over sewing, pressing and finishing of our coats.

Q. Is the plant, the Walton plant, divided into departments?

[824] A. Yes, sir.

* * * * * * *

Q. (By Mr. Thompson) Which of those departments did Mr. Prosterman supervise for you?

A. Our sewing, pressing and finishing.

Q. Who supervised the other departments?

A. I did, sir.

Q. Do you still supervise those other departments?

A. With the exception of the office; my dad supervises the office, 90%, say, at present.

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[838] Trial Examiner: As you pointed out, there has been no question raised as to the necessity of the lay-off. Therefore you don't have to justify the necessity of the lay-off.

Mr. Thompson: No, sir; but the timing of the decision as to when the lay-off would be made, and the timing when they started analyzing these employees and deciding which would be laid off and which would be retained, is important in view of [839] the fact that the Union served a notice on us on a certain day that these were their people.

Trial Examiner: All right. Can we find the last question, or do you want to rephrase it?

Mr. Thompson: I would like to have it.

The Reporter: (Reading) "Q. During this period, as your production increased, did the production of the individual employees, the output of the individual employees, change in any way?"

"A. It increased."

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[840] Q. Was there any change in your production requirements during the fall of 1957?

A. Yes, sir.

Q. In which direction was that change?

A. Toward the end of the fall season we required less garments.

Q. Was there any move, was there any policy adopted on your part with respect to the work force or the capacity of the plant at that time?

[841] A. At the very beginning, in October, we went on short time. Then we saw where—

Q. What do you mean by short time?

A. Went down to as much as two and a half, three days a week, eight-hour days. But it's very hard for a person to make a living working those hours, and it was a question of cutting the labor force down in order to give the remaining a living.

Q. Was any policy adopted with respect to the number of employees that you would continue to employ after that time?

A. No, sir. Not a set number. Only a set production. Amount of finished garments.

Q. Did that have any effect at all on the number of employees that you had?

A. I would say it would be directly proportionate.

Q. What did you do, once you made your determination as to your production requirements?

A. Then I spoke to Mr. Prosterman and told—informed him to bring his factory in line with our production requirements.

Q. (By Trial Examiner) All right. Now let's get some specific information in this record. What did you tell Mr. Prosterman your production requirement was?

A. 300 garments.

Q. And what did you tell Mr. Prosterman to do?

A. To produce 300 garments a day, sir.

Q. Well now, how many were you producing when you were on the [842] two and a half to three day—

A. There would be approximately 400, 425 garments each day would come out.

Q. That two and a half, to three-day week, you were turning out at the rate of 300 per day for that whole week, is that it?

A. No. Our daily production would stay the same, whether we worked one day, or whether we worked all week, sir.

Q. When you spoke to Mr. Prosterman about 300 a day, were you telling him to work 300 a day for the entire week, or were you telling him to work 300 a day for a two and a half day week, or three-day week?

A. 300 a day for a five-day week, sir.

Q. Did you tell him that you wanted to discontinue the two and a half to three-day week?

A. Yes, sir.

Trial Examiner: You may continue.

Q. (By Mr. Thompson) About when did this take place?

A. I would say it started in the latter part of October and continued through November.

Q. Was there any change in your production requirements in December?

A. No, sir.

Q. Was there any policy adopted with respect to the production which you would have subsequent to December?

[843] A. I didn't follow that one.

Q. Did you have any instructions that you gave Mr. Prosterman as to the production he would have subsequent to December?

A. No.

Q. Was there a lay-off at any time after that?

A. After December?

Q. Yes.

A. We had a—we laid off people in January, sir.

Q. What was the occasion then?

A. In order to meet the figures that were called for.

Q. When were those figures called for?

A. Well, we had hoped that business would open up in January, as we normally go out selling for the spring. We start selling in October and November, and we had hoped in January to also get sales which didn't materialize. Therefore, a change had to be made.

Q. When did that take place?

A. Latter part of January. I think during the whole month of January. And also in December—excuse me.

Q. When did the Loganville Pants Company cease operations?

A. End of January.

Q. What—After that, where were the pants made and where were the coats made that you produced?

A. On our own premises.

Q. People who produced them, who employed them?

[844] A. Well, I would say it was automatic, to the respect that Loganville Pants was out of business, and as our production was lower, less people were needed, so the operators were picked and told to report to work. As to who told them to report to work, I couldn't exactly tell you.

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[845] Q. (By Mr. Thompson) Mr. Sharff, I will hand you a document which has been introduced in evidence as General Counsel's Exhibit 9, and ask you if you have ever seen that document.

A. Yes, sir; I have seen it.

Q. What was the occasion for your—Did you write Mr. Wilson, as it states in this letter?

A. I believe so.

Q. What was the occasion for your writing that letter?

A. I would say that—oh, in November, why, quite a few people—of our employees, came to me and advised me that they had signed a union card, and told me that they didn't know what they were signing at the time, and what could they do to get out of it. They didn't want to have any part of it. At which time I consulted our attorneys, to see if there was anything they could do.

Q. What did you do, if anything, after you received that letter?

A. I believe that we also received another notice which we posted on our bulletin board. We received a notice from our attorneys telling people what they could do if they wanted to do it, which was posted for their convenience.

Q. Mr. Sharff, I hand you a document which has been introduced into evidence as General Counsel's Exhibit 6-A, and ask you if you have ever seen that document before.

A. No, sir; I haven't.

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[865] Q. (By Mr. Sheinkman) Do you know why Lucille Yancey was laid off?

A. No. I don't concern myself with particulars.

Q. Did you know why any employees were laid off in January 1958?

A. I know that they were laid off due that we had too much help, and the policy was set how the labor should be handled. That X number of people were going to be laid off, whether they were union, non-union or who.

Q. I ask you the question again. Do you know why Grace McCart was laid off?

A. I believe she was laid off for poor workmanship, because her name has been mentioned quite a bit.

Q. How about Pearl Coker?

A. I don't know.

Q. How about Bonnie Hamilton.

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[870] A. Make-up was still terrific with everybody.

Q. How long did the high make-up continue, would you say?

A. Until possibly December, or January of '58.

Q. And then the make-up dropped off; is that right?

A. Yes, sir.

Q. Would you say that make-up was a factor considered in laying off or keeping employees at the Walton Manufacturing Company?

A. No, sir. Make-up—

Q. Make-up is not a factor.

A. As far as I am concerned, it isn't.

Q. What are the factors—what were the factors?

A. The factors are to produce a garment as economical as possible, both now and in the future, plus the fact that we have maintained, since our beginning, that we want quality. So I would say quality was possibly number one. Possibly production, two. And seniority, or anything coming afterwards.

Q. Did you discuss quality with any of the workers in the sewing department?

A. On occasion. Maybe one or two.

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[885] MYRTLE EWING.

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[888] Q. (By Mr. Thompson) Will you give us an example of what the result of her sewing not being up to par was? What did the garment look like? What was the deficiency that you—

A. There are so many different ways that you could sew an under-collar to make it wrong; either too low or too high; put the fullness in the wrong places; use the wrong colored thread. Those were some.

Q. Were those some of the things that Grace McCart was doing?

A. Yes.

Q. She was doing those?

A. Yes.

Q. Did you ever speak to her about that?

A. Oh, yes.

Q. Did you ever speak to her more than once?

A. Yes.

Q. Was the correcting of her a regular thing, or did it just happen a few times?

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[891] Q. Now was anybody else in your unit laid off or discharged on the 31st of January?

A. Not that I can think of.

Q. You say Ida Harper was discharged?

A. Yes.

Trial Examiner: Not laid off.

The Witness: That's right.

Q. (By Trial Examiner) What was she discharged for?

A. Well, Ida was a bit immature. She could have been a good operator. But she just wouldn't settle down and go to work.

Q. Had you been having trouble with her before?

A. Oh, yes. Continuously.

Q. Had you talked to her about it?

A. Yes. Daily.

Q. What made you select that particular day for discharging her? What did she do on that day that caused you to discharge her?

A. It was a culmination of bad work.

Q. Now you didn't tell me anything about the bad work. I thought you said she was immature.

A. Immature, which led up to bad work, of course.

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[892] Q. (By Mr. Thompson) Mrs. Ewing, after Ida Harper was terminated, who did the work that she had done prior to that time?

A. Utility girl, and a girl that was on an operation that [893] was performed just before the one Ida did when she ran out of work due to the cut-back in the whole production. She didn't have enough work on her own job, so she had extra time, and she filled in that extra time on Ida's. What she didn't complete, utility girls did.

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[897] Mr. Thompson: Mr. Examiner, I don't intend to misuse the term. I think she did testify that this woman was a part of the lay-off.

Trial Examiner: She testified she was discharged on January 31st. The date is the same date.

Mr. Thompson: Yes, sir. She also testified a very important reason for that was the lay-off they were having, and [898] that's the reason I am adverting to that—

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[900] Trial Examiner: Let's not find out what she didn't mention. We want to know what she did mention.

A. I asked her if she knew that there was organizers, union organizers in the vicinity.

[901] Q. (By Mr. Thompson) And what did she say?

A. She said yes.

Q. And what did you say then?

A. That ended the conversation.

Q. Did you say anything about unions other than that, before that time?

A. No.

Q. Did you mention anything to her about Morris Sharff?

A. No, sir.

Q. Did you say anything that Morris had said; relate anything to her that Morris had said?

A. No.

Q. Did you say anything about anybody being fired if they joined the Union?

A. No.

Q. I believe you testified that Nellie Wood was under your supervision at the time she was employed there.

A. That's right.

Q. Did you have any conversations with Nellie Wood after the time she was laid off, or terminated?

A. Yes.

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[902] Q. This was a conversation face to face, was it not?

A. Yes.

Q. What was the occasion, if anything, that Nellie was at your house? Was there any particular occasion there?

A. Yes. She asked me did I suppose if she withdrew from the Union would Morris give her her job back?

Q. What did you say to that?

A. I told her I did not know.

Q. Was there anything else said between you and Nellie at that time?

A. She asked me would I talk to Morris and I told her that I would.

Q. Did you recall anything else that might have been said between the two of you?

A. That was about all of it.

Q. Now did you have any other conversation with her at the time that had no relation to that particular subject?

A. No.

Q. Did you ask Nellie to come to your house at that time?

A. No.

[903] Q. Did you ever report this conversation to Morris?

A. No.

Q. Did you ever report back to Nellie concerning it?

A. No.

Q. (By Trial Examiner) Did you ask Morris about getting her a job back?

A. No, I didn't.

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Q. (By Mr. Thompson) Will you tell me what your reasons were?

A. Well, they were the reasons that she was laid off. We just didn't have the work for her. We had not increased our production any, and if we had—Morris had seen fit to have taken [904] her back, she would have been—since she was trained under my supervision, she would have, in all probability, been my operator again, and her work wasn't up to the other girls, and I would have preferred not to have had her.

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[905] Q. Did the fact that their names were on that letter enter into your consideration in their lay-off or discharge?

A. It did not.

Q. Did you have any instructions to discharge them because their names were on that letter?

A. No.

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[906] Q. (By Mr. Joy) Mrs. Ewing, yop said that yop spoke regularly to Grace McCart about her alleged bad work. What do you mean by regularly?

A. Sometimes every day, sometimes several times in one day. Maybe again it wouldn't be every day.

Q. Did Grace McCart make production?

A Sometimes.

Q. How much?

A. You mean how much time? How many times?

Q. How much of the time did she make production?

A. Part of the time. I don't remember exactly.

Q. Did she make it most of the time?

A. Well, she does now.

Q. Didn't she before she was terminated?

A. Some of the time.

Q. I beg your pardon?

A. Some of the time.

Q. When all this bad work was found, that you are talking about, what was done about it?

A. It was repaired.

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[909] Q. On direct examination you stated that the reason that she was discharged was because of immaturity; wouldn't settle down and go to work. That you talked to her daily about that.

A. That's right.

Q. And you said then that there were no other factors involved--involving her. Are you changing your position on that?

A. No. I think that would take in all of the causes.

Q. (By Trial Examiner) What were they all, again?

[910] A. Are you asking me?

Q. Yes; I am asking you.

A. Immaturity of conduct; just general horsing around.

Q. Bad quality of work have anything to do with it?

A. Well, if you do those things, your quality can't be up to par.

Q. Well, did it have anything to do with it?

A. Well, I feel that it did.

Q. And was there anything else?

A. Well, we didn't need the operation, a full time operator. We just didn't have enough work for a full time operator on that one operation.

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Q. (By Mr. Joy) Did Charlotte Finley also take over Pauline McGee's operation?

A. Part of it.

Q You mean she took over most of Ida Harper's operation—

A. No; part of it.

Q. Part of Ida Harper's.

A. Yes.

Q. Part of Pauline McGee's, and all of her own.

[911] A. All of her own. Part of the other two.

Q. You say that Pauline McGee's operation was eliminated some weeks after termination. How was it eliminated?

A. We combined it with another operation.

Q. What was that other operation?

A. Edge basting.

Q. Who did that?

A. Laverne Bowen.

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[917] Q. (By Mr. Joy) Morris Sharff, or some of the Sharffs, had made the statement, had they not; that the girls would be fired, if they joined the union?

A. I didn't hear it.

Q. You didn't hear it.

A. No.

Q. Did you ever have any discussion with them at all about the union?

A. No.

Q. Never had any word of discussion at all with Mr. Morris Sharff about the union situation.

A. No.

Q. Did you ever have any with Mr. Prosterman about the union situation?

A. No.

Q. Never a word.

Q. (By Trial Examiner) How about Mr. Arthur Sharff?

A. No.

Q. When did you first find out the union was attempting to get recruits among the employees of the plant?

A. I heard it from the girls.

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[919] Q. How many employees did you supervise between January and July 1958?

A. Well, it's the same that are employed now, because I haven't any new ones.

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[931] Q. How much poor quality did she have?

A. Well, I don't know how much, but her quality just wasn't as good as Johnnie's and Laverne's.

Mr. Joy: Nothing further.

Q. (By Trial Examiner) Were there ever any meetings of the supervisors in your plant?

A. Not as a whole. I only remember one.

Q. When was that meeting held?

A. Right before Christmas.

Q. Of 1957?

A. Yes.

Q. And what discussed—what subject was discussed at this supervisor's meeting?

A. Our Christmas bonus.

Q. Was that all?

A. That's all.

Q. Was there ever any meeting of supervisors in which the supervisors were instructed not to discuss the Union with the employees in the plant?

A. No.

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[932] SARAH SANDERS.

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[934] Mr. Thompson: You will have to forgive my local one!

Q. (By Mr. Thompson) Did you ever know anyone who worked there by the name of Grace McCart?

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Q. Did you ever, during the fall and winter of 1957, find any coats that Grace McCart had sewed that were not properly [935] sewn?

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Mr. Sheinkman: Something is wrong with the question. There is an assumption.

Trial Examiner: You are a little bit late with your objection.

Q. (By Mr. Thompson) What did you observe, Mrs. Sanders, that led you to the conclusion that they were not properly sewn?

A. Well, some would have skipped places in them, and some would have the wrong kind of thread in them matching the color.

Trial Examiner: You mean the wrong color thread?

The Witness: Yes, sir.

Q. (By Mr. Thompson) Did you have occasion to observe this more than once?

A. Well, the work would run—I mean, good and bad.

Q. Were there days when you wouldn't see this, and then other days that you would. Is that what you are testifying to?

A. Yes.

Q. Was it a fairly regular thing; or was it just once in a while?

A. I would say she had a good many.

[936] Q. Now was this [illegible] on up to the time she left there, or not?

A. Yes, sir.

Q. Did she have any more about the time she left than she had been having before?

A. She had a good many.

Q. Did you hear Morris Sharff make any speeches in the plant?

A. Yes, sir.

Q. Did you ever hear him say anything about they were going to close the plant if the Union came in?

A. No, sir.

Q. Did you ever hear him say anybody was going to be fired if the Union came in?

A. No, sir.

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[940] Q. After she quit work, did you continue to get bad collars?

A. I would say not as many.

Q. But you did get bad collars.

A. Some.

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[942] CHARLOTTE TOWLER,

a witness called by and on behalf of the Respondents.

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[943] Q. What job do you perform there?

A. Final inspector.

• • • • • • •

[944] Q. Do you know a person named Grace McCart?

A. Yes.

Q. Was she employed at the Walton Manufacturing Company?

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Q. Mrs. Towler, while you were inspecting in the fall and winter of 1957, did you ever observe anything defective about the collars of the coats that were coming to you for inspection?

A. Yes.

Q. What did you observe?

A. The collars weren't caught onto the body of the coat.

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Q. (By Mr. Thompson) Did you observe anything else about them?

A. Had the wrong thread, sometimes. The thread didn't match.

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[952] Q. (By Mr. Thompson) Mrs. Towler, do you recall whether these cards that you referred to, or that you put in the coat when you sent it back for repairs, were in use before Grace McCart was terminated, at the time you refer to of her being terminated?

A. Yes; they were.

Q. Were they in use for a period of several weeks before she was terminated?

A. Yes.

* * * * * * *

[953] A. When we were taking the cards back, they would say: This machine, and everything. And I knew one girl was at a machine. And that Grace's collars were just coming in that way.

Q. Did you tell the supervisor it was Grace's collars?

A. No.

Q. (By Mr. Thompson) Was anybody else sewing that part of [954] the collar?

A. No.

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[956] Q. And was there anybody else in the plant that was sewing that portion of the collar that Grace McCart sewed?

A. Not that I know of.

Q. And did you run across, in the course of your inspection, defects in that portion of the collar that Grace McCart was sewing?

A. Yes.

Q. I believe you testified that you ran across that frequently, did you not?

A. Yes.

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[957] Q. (By Mr. Thompson) When you answered Mr. Joy's question, he asked you the question did you find defective work as much as once a week, and you said No to his question. Did you mean No, you didn't find it that much; or did you mean No, that you found it more than that?

A. I found it more than that.

Q. And how frequently did you find it?

A. Well, we had collar trouble every day.

Q. And what portion of the collar were you having trouble with?

A. The under-collar.

Q. And who sewed that part of the collar you were having trouble with?

A. Grace McCart.

Q. Now do you know of your own knowledge that Grace McCart was sewing that part of the collar?

A. Yes.

Q. Now after Grace McCart left there, and came back, did you have as much trouble with that part of the collar, did you have as many defects—did you turn up as many defects in your [958] inspection, as you turned up before she left there?

A. No.

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[961] IMOGENE MEEKS.

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The Witness: Imogene Meeks, Route 1, Loganville.

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[965] Q. Now if the coat were properly sewn, would the numbers be the same, or would they be different?

A. Would the same number be on—

Q. If Lucille Yancey had properly done her job, would the numbers on the facing be the same, or would they be different numbers?

A. When she sewed them on the right side, they would be the same.

Q. And what would be on them, if she hadn't sewn them on the right side?

A. They would be the same numbers, but she would get two 14's—like there would be two 14's and she put one 15 on one 14, why that would be the wrong size.

Q. Did you ever get any coats from Lucille Yancey that had two different numbers on them?

A. Sure did.

[966] Q. Now did the numbers indicate sizes?

A. Yes, sir.

Q. Was there any difference in the size of a 15 as opposed to a 14, or were they the same?

A. They could be the same size, but the numbers would be wrong and that would sew the coat wrong.

Q. Did this happen very often, that you got coats from Lucille that had the wrong numbers on them?

A. We got a good bit.

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[969] Q. Have you ever observed any darts that were not sewn properly?

A. Yes.

Q. Have you ever sent any coats back to Lucille, or to your supervisor, because of defective darts?

A. Yes.

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[970] Q. (By Mr. Thompson) Did you ever overhear supervisor Higgins correcting Lucille about her work?

A. Yes.

Q. That's Lucille Yancey, I am referring to.

A. Yes.

Q. What was the nature of the corrections that you heard?

A. She would tell Lucille that she would have to do it better.

Q. Did you hear this more than once?

A. Yes; I heard it more than once.

Q. Did it happen very often while Lucille was working there?

A. Yes; it happened a good many times.

Q. I beg your pardon; I didn't hear you.

A. It happened a good many times.

Q. Did you ever hear Lucille and Mrs. Higgins arguing over it?

[971] A. Yes.

Q. Did you ever hear Lucille arguing about anything else?

A. She would argue about us making more than she did.

Q. Who would she argue that to?

A. Me and Odele Barnes.

Mr. Thompson: No further questions.

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Q. (By Mr. Joy) Your statement, Mrs. Meeks, about the amount of sewing with these two numbers, different

numbers; you said you got a good bit. What do you mean by a good bit?

A. We would get a lots of them back that we would have to have done over.

Q. What do you mean by a lot of them?

A. We got her work—she got her work first, and we got it after her. We would have to do it, and it would be wrong, and we would have to send it back to her.

Q. How often did that happen?

A. A good many times.

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Q. (By Mr. Joy) Would you say it happened once a week?

A. It happened more than once a week.

Q. Twice?

[972] A. More than that.

Q. How often?

A. We would get one every day, if not two.

Q. One or two.

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[973] Q. Now about this dart on the wrong side. About how many of those would there be?

A. We got right smart of that in a week's time.

Trial Examiner: I didn't hear that.

The Witness: We got right smart back, in a week's time.

Q. (By Mr. Joy) About how many a day?

A. Sometimes we would get lots back, and sometimes we wouldn't get any back.

Q. What do you mean by "lots"?

A. We would get a good many back.

Q. A hundred?

A. No. Not a hundred.

Q. Ten?

A. Not in a day's time, we wouldn't.

Q One or two?

A. Yes.

Q. Now when you say that you heard Lucille Yancey and Grace Higgins arguing, tell us just what you heard.

[974] A. Well, Lucille would get mad because Grace would say something about her doing bad work.

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A. Grace would tell Lucille she would have to do her work better.

Q. What did Lucille say?

A. She would argue with Grace about it.

Q. What would she say?

A. I don't know what all she said.

Q. All right.

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[978] Q. When did you tell Morris that Lucille Yancey's work was bad?

A. Tuesday.

Q. Was that the first time?

A. Yes.

Q. You had never told him that before?

A. No. We always tell Grace. We were told to tell Grace.

Q. When did you tell Grace that Lucille Yancey's work was bad?

A. We would have to give it back to her, when we got bad work.

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[979] Q. Did you say something about her complaining that you were making more money than she was?

A. She would tell other people that we were. She would get mad because we were making more money than she was, but we had to work harder than she did to send the work through.

Q. Did you get along all right with Lucille Yancey at work?

A. Yes.

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ODELLE BARNES.

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[985] Q. And when you got the coats, did they have any numbers on them after Lucille had performed her job on them?

A. Sometimes Lucille would get the numbers mixed up.

Q. What do you mean by that?

A. We would have a 15 with a 14, a 16 with a 17, and those numbers have to be kept straight in order to get the linings.

Q. Could you sew your pocket on a coat that had two different numbers on the facings?

A. No; I can't.

Q. Why not?

A. Because it would mess up a whole coat. Have a different color lining in it.

Q. So what could you do—or what did you do at that time, when you got a coat that had two different numbers on it, on the facing?

A. Well, I would call Grace Higgins and show her the numbers and all, and she would carry it back to Lucille and get it straightened out.

Q. And what had to be done, in order to straighten it out?

[986] A. Well, that 14 would have to be took off and put with that other 14, to straighten it out.

Q. By "took off", what do you mean?

A. Took off the lining part.

Q. Was the number taken off, or was the facing taken off?

A. The whole facing.

Q. And then what was done?

A. Put with that other 14.

Q. Did this happen more than once while Lucille was working there?

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Q. Was it more than ten? Was it fewer than ten?

Q. (By Mr. Thompson) Did it happen on a regular basis, throughout this time, or not?

A. It happened a good bit, but I just don't remember how many times, or—

Q. (By Trial Examiner) Do you remember how regularly?

A. A good bit.

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[987] Q. Did you ever give Mrs. Higgins any coats back on account of anything being wrong with the darts?

A. Yes, sir. They would be made on the wrong side.

Q. What do you mean, they would be made on the wrong side?

A. Well, see? you can always tell when you don't fix it so that—the seam would be on the wrong side, where we have to put the pocket, and we couldn't sew the pocket onto the darts on the right side.

Q. The wrong side of what?

[988] A. The lining.

Q. And what would you do with coats, when you got them like that?

A. I would call Grace and tell her, and she would carry them back to Lucille.

Q. Was anybody else sewing those darts, other than Lucille while she was there?

A. No, sir.

Q. Did anybody get these coats between Lucille and the time you got them?

A. No, sir. We got them from Lucille.

Q. Did you ever overhear Grace Higgins, the supervisor, talking to Lucille about her work?

A. No, sir.

Q. Did you ever see her take any work back to Lucille which you had—

A. That I would give her? Yes, sir.

Q. Did you see her do that—

A. You know, I would have to call Grace and show her that that weren't my job, to take it back to Lucille. I always call Grace, if anything goes wrong, and showed her. And let her do the carrying back.

Q. Did you ever carry any back?

A. Yes, sir.

Q. Did any of your supervisors ever say anything to you about [989] the Union?

A. No, sir.

Q. Did you hear any speeches made at the time?

A. Yes, sir.

Q Who did you hear make a speech?

A. Morris.

Q. Did you ever hear him say anything about closing the plant on account of the union?

A. No, sir.

Q. Did you ever hear him say anything about firing anybody on account of the union?

A. No, sir.

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[991] Q. (By Mr. Sheinkman) Mrs. Barnes.

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[992] Q. Answer my question. Is that sometimes you got mixed up as much as the sometimes that Lucille Yancey got mixed up?

A. No.

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[995] Q. (By Mr. Thompson) Mrs. Barnes, you testified that you sent work back through Mrs. Higgins that Lucille Yancey had done. Now you remember that taking place.

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. You do the work now that she was doing then.

Trial Examiner: Any objection?

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Q. (By Mr. Thompson) Mrs. Barnes, I ask you to think of the work that you get back now, as you just have testified to, and the work that Lucille Yancey got back when she was doing this sewing on the facings, and tell us who got the most work back; who made the most mistakes; you or Lucille Yancey?

A. Lucille.

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[997] RUBY BERRY.

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[998] Q. And which operation came first in the manufacture of the coats; Lucille's or yours?

A. The facings.

Q. That would be Lucille's.

A. Yes.

Q. Did any operation come in between your operation and Lucille's?

A. The cutting of the pockets.

Q. And who did that?

A. Ruby Brooks.

Q. Did anybody else do the work that you were, sewing in the pockets?

A. Odelle Barnes and Imogene Meeks.

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[1002] Q. Did you ever run across any that didn't have the same number?

[1003] A. Yes, I did.

Q. What did you do with them?

A. I give them back to C ace.

Q. What did Grace do with them?

A. She took them back to Lucille.

Q. What did Lucilie have to do with it?

A. She had to take them out.

Q. Had she had anything to do with it prior to that?

A. No, she didn't--well, she sewed them wrong. She was the only one that sewed them.

Q. Now what else, if anything, did you find wrong with coats that caused you to give them back to Grace?

A. Well, that was all, because, see? that was the beginning of the linings, and the facings.

Q. You made some mention a minute ago about darts.

A. Well, she sewed darts. Sometimes the darts would be on the wrong side.

Q. The wrong side of what?

A. The lining.

Q. And how would that affect your work?

A. Well, we couldn't sew them, because when it came to us—

Q. Couldn't sew what?

A. The pocket.

Q. All right.

A. Well, it would—the darts would be on the wrong side. Well, we would have to send them back for her to put them on [1004] the right side.

Q. Who is her?

A. Lucille.

Q. Is that Lucille Yancey?

A. That's right.

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Q. (By Mr. Joy) When you took work back to Grace Higgins, or gave it to Grace Higgins, did you see her take it to Lucille Yancey?

A. Sometimes, and sometimes I didn't, because I went on sewing. Sometimes I had to wait for it to come back.

Q. About how often did you find such defects as that?

A. Well, sometimes pretty often.

Trial Examiner: Can you be more specific, Mrs. Berry? I don't know what you mean by "pretty often."

[1005] The Witness: Well, every day or so.

Trial Examiner: How many, every day or so?

The Witness: I didn't count them.

Q. (By Trial Examiner) A good many?

A. Sometimes. And sometimes just a few.

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[1007] Q. And he handed them to Lucille Yancey; is that right?

A. He laid them on the table. She shoved them off the table at a little old part that was pushed out.

Q. And she was required to make enough to keep the other two girls going; namely, Imogene Meeks and Odelle Barnes; is that right?

A. Well, I don't know whether she made production.

Q. Were Imogene Meeks and Odelle Barnes kept working while you were there?

A. Yes.

Q. And who supplied them with work?

A. Lucille Yancey.

Q. And if they—if she didn't supply them with work, they wouldn't have had work to do; is that right?

A. Well, they check out.

Mr. Sheinkman: No further questions.

Trial Examiner: Any more questions, Mr. Joy?

Mr. Joy: No, sir.

Re-Direct Examination.

Q. (By Mr. Thompson) Mrs. Berry, which takes the longest; sewing the facings, or sewing of inside pockets?

A. The inside pockets.

[1008] Q. About how much longer does that take?

A. A good bit longer.

Q. Which is the more complicated of the two jobs?

A. Sewing the pockets.

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[1012] GRACE HIGGINS.

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[1015] Q. (By Mr. Thompson) All right, let's take those one by one, Mrs. Higgins. What do you mean by very bad work?

A. Well, she just didn't do the work properly for it to fit in the garment. She sewed darts on the wrong side. She mixed linings.

Q. What do you mean by mixing linings?

A. Well, when we get the linings, they are cut in pairs. The linings are shaded. If you happen to get one lining out of line, it throws the whole bundle off. The right side, or maybe the left, would be a different color from the other side.

Q. What do you mean would be a different color from what?

A. Well, in navy we have shaded colors, different shades of navy; different shades of gray.

Q. On a particular coat, what colors would differ?

[1016] A. Well, in a navy coat, it would be a different shade of navy, and different on the other.

Q. (By Trial Examiner) Would that different shade be because the cloth was in a different direction; is that right?

A. That she picked it up wrong.

Q. It would be the same cloth, but fitted in a different direction, and therefore it would be a different sheen.

A. Yes. She sewed the darts on the wrong side of the material.

Q. (By Mr. Thompson) What do you mean by the wrong side? Do you mean the wrong side of the coat, or the wrong side of the cloth that she was sewing on?

A. Wrong side of the cloth that she was sewing on—a right and wrong to it.

Q. Now what effect, if any, did that have upon the next operation?

A. The girls couldn't put the pocket in, because the dart would be on the wrong side. We would have to send it back to her.

Q. How did you discover these defects that you described?

A. What the girls didn't discover, I did, in checking her work.

Q. What happened, if anything, when the girls discovered them?

A. They would call me over and tell me the darts were on the [1017] wrong side.

Q. Who were these girls you are talking about?

A. Imogene Meeks and Odelle Barnes.

Q. What jobs were Imogene Meeks and Odelle Barnes doing?

A. Setting inside breast pockets.

Q. Was there any difference between Lucille Yancey's operation, and the operation of those two girls?

A. No.

Q. Did anybody else do the work that you described Lucille Yancey as doing at the time she was doing the work?

A. No. Lucille was the only one on the job during that time.

Q. Will you state, please, ma'am, exactly what Lucille Yancey was supposed to do in her operation at the time she was working under you?

A. Well, we get the facings that is made of the material of the coat, and are numbered. Each pair has the same number, the lining, and she is to sew the same numbers to the same two linings and put—and she was to put fullness into the same two parts, which she never did.

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[1018] Q. Now, what do you mean when you say that Mrs. Yancey was uncooperative? Will you tell us what exactly you refer to, there?

A. She did not want to take instructions at all.

[1019] Q. Would you be a little more particular about it? Tell us what you said to her, and what she said to you, and what took place.

A. Well, when I would go to her and check with the work and try to tell her how to do it, she would say, "Now,

listen; you have got to make it a little easier on us, around here." And she was never satisfied. She always wanted the linings cut an inch longer, where she could sew them in as she pleased. It didn't matter if it was too much, or not, and we are only supposed to have a certain amount.

Q. How often did this happen?

A. Quite often.

Q. (By Trial Examiner) How often is quite often?

A. Every day.

Q. (By Mr. Thompson) How long a period of time did it cover?

A. Eight hours.

Q. In a period of weeks and months, what period of time did it cover?

A. The full amount that she stayed there.

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Q. (By Mr. Thompson) The question, Mrs. Higgins, is were [1020] there any other factors, other than the ones you have related, which entered into the discharge of Lucille Yancey?

A. Well, she didn't do production.

Q. What do you mean by that?

A. She didn't come up to the production that we required, in the operation.

Q. Mrs. Higgins, what is make-up pay?

A. Make-up pay is, the girls cut tickets, and if they don't get enough to make up for a dollar an hour, that's called make-up pay.

Q. How do you compute the make-up pay of an employee? What would determine the make-up pay of an employee at this plant?

A. I don't know.

Q. Did Lucille Yancey have make-up pay?

A. Yes.

Q. Now how would you know whether or not she had make-up pay?

A. Because I checked her record. Not every day, but most of the days we would check their records.

Q. After Lucille Yancey left the company, who took over her operation?

A. Elizabeth Johnson.

Q. And what was your experience with Elizabeth Johnson with respect to the type of work that she did?

A. I don't quite understand that question.

Q. You described the work that Lucille Yancey did. What was [1021] the experience that you had with Elizabeth Johnson concerning the quality of the work that she did?

A. Elizabeth was some better. She had some poor work, but she did better work than Lucille Yancey.

Q. And how long did Elizabeth do this work?

A. Around six weeks.

Q. And after Elizabeth was taken off of that job, who did the work that Lucille had done?

A. We put that in with the pocket girls; Imogene Meeks and Odelle Barnes.

Q. Now who did the work that Imogene Meeks and Odelle Barnes had done prior to that time, after you gave them the work of Lucille Yancey?

A. They do that now. Both jobs.

Q. What has been your experience with the work that Odelle Barnes and Imogene Meeks have done since

they took over the work of Lucille Yancey's, with respect to quality?

Mr. Sheinkman: I object.

Trial Examiner: Sustained.

Q. (By Mr. Thompson) Mrs. Higgins, do Odelle Barnes and Imogene Meeks, turn out better or worse work, quality-wise, than Lucille Yancey did?

A. They turn out—

Mr. Sheinkman: Object to the question.

Trial Examiner: Sustained.

[1022] Mr. Thompson: Mr. Examiner, I offer to prove by this witness that the two girls which are now doing not only their own work, but the work that Lucille Yancey was doing, on the combined basis, do better work, make fewer mistakes, and she has less complaints and less defective work than she had at the time that Lucille Yancey was there. That's what I am attempting to prove by these questions.

Trial Examiner: The offer of proof is rejected. It is not material whether the other girls do better work than Lucille Yancey. The only issue in this case is whether Lucille Yancey was fired for defective work, and whether another girl can do the work better than Lucille Yancey is not an issue in this case. For that reason I have overruled the question that you have asked, and don't consider this testimony material.

Mr. Thompson: In order that there will be no question as to our position, it is our contention that this is an issue in the case, and that it is material to show that this woman, Lucille Yancey, was an incompetent employee,

and that once competent employees were put on the job, they had no trouble whatsoever of turning out the work which she was doing, along with the work that they were doing at that time.

Trial Examiner: I have your offer of proof and I have ruled.

Q. (By Mr. Thompson) Mrs. Higgins, did you ever have an [1023] employee by the name of Pearl Coker under your supervision?

Trial Examiner: Mrs. Higgins—excuse me, Mr. Thompson; I would like to ask a question.

Mr. Thompson: Yes, sir.

Q. (By Trial Examiner) You testified before you also had trouble with Lucille Yancey because she was unruly. Now you haven't explained to us yet, at least I haven't heard the explanation yet, as to what you meant by the fact that Lucille Yancey was unruly.

A. Do you want me to explain that?

Q. Yes, ma'am.

A. Well, she was just unruly. She just wouldn't take instructions.

Q. Do you mean by unruly, that she wouldn't take instructions, or that she was making commotions in the plant, or what?

A. No; she wasn't making commotions in the plant. She was fussing at other girls. And at me, she was always complaining about her machine, and I was—

Q. Just what do you mean by "—fussing at other girls"?

A. Complaining about that I couldn't give instructions. That they would never do the work to please me.

She complained about her machine, which I was to sit down and try. I never had any trouble when I would sit down. And then when she would get back to the machine, it would go to doing bad again.

[1024] Q. And that's what you call unruly?

A. Yes.

Q. (By Mr. Thompson) How frequently did that take place during the time she was under your supervision?

A. Just about every day. It was just a complaint all the time.

Q. (By Trial Examiner) And that was throughout the period from July until December; is that right?

A. Yes.

* * * * * * *

Q. What do you mean, she was under make-up?

A. She was in make-up. She didn't make a minimum of a dollar an hour.

Q. Now if she was under make-up, did she make her production?

[1025] A. No.

* * * * * * *

[1026] Q. In what way was it not satisfactory?

A. She didn't set the collar properly.

Q. What were the factors that led you to the conclusion that she didn't set the collar properly?

A. She didn't get the fullness in the right place.

Q. And who discovered these defects?

A. I did.

Q. What did you do when you discovered them?

A. We just had to do it all over again.

Q. And who would be responsible? Who did it all over again?

A. Pearl did.

Q. Did you ever talk to Pearl about the quality of her work?

[1027] A. Yes.

Q. Did you do this more than once?

A. Yes.

Q. About how many times, or how frequently, did you talk to her about the quality of her work?

A. Once a week.

Q. Over what period of time did you do this once a week?

A. The full time that she stayed there.

Q. Did you ever have any conversations with her concerning her make-up?

A. Yes.

Q. How frequently did you have those conversations?

A. Well, when I would talk to her about her quality, that was including her make-up; because if she didn't do her production, well, that was make-up.

Q. (By Trial Examiner) How long did Pearl Coker work under your supervision?

A. She worked for me from the latter part of June, or first of July, until January.

Q. About six months. And you had this trouble with her right along; is that right?

A. Yes.

Q. And you spoke to her about it right along.

A. Yes.

* * * * * * *

[1028] Q. What other work did they do?

A. Partain was the utility girl. Hester Lou McCart sewed side seams when she would catch up; sewed pocket vents. And the same thing with Louise Sammons.

Q. Mrs. Higgins, were there any factors which were taken into consideration in deciding to retain Mary Lou Partain, as opposed to Pearl Coker?

A. Yes.

Q. What were those factors?

A. Because Mary Lou Partain's work was satisfactory. And she could do more operations than Pearl. Pearl only set collars.

[1029] Q. Is Mary Lou Partain still there?

A. No.

Q. Where is she?

A. She quit.

• • • • • • •

[1031] Q. (By Mr. Thompson) Now, do you know about when Frances Elizabeth Johnson was laid off?

[1032] A. January.

Q. Do you know what part of January it was?

A. Latter part of January.

Q. Was anybody else laid off from your department at the same time that Frances Elizabeth Johnson was laid off?

A. Mary Barnes.

Q. Anyone else, that you recall?

A. I don't recall anyone, right now.

Q. (By Trial Examiner) Mrs. Higgins, did Frances Elizabeth Johnson work for you sewing facings to the lin-

ings for the period from December 1957 when Lucille Yancey was discharged, up to the time she was laid off at the end of January?

A. Yes, sir.

Q. Did she work in any other department, other than your department during that six weeks, or approximately six weeks period?

A. No.

Q. And did she do only facings, sewing facings to linings during that six weeks period?

A. That's all.

Q. And then when she left your supervision she did not go to work in any other section; is that correct?

A. No.

* * * * * * *

[1034] Q. What do you mean by poor quality?

A. She didn't do the facings, put the fullness in the right places. But her quality was better than Lucille's.

Q. At the time Frances Elizabeth Johnson was doing this work, would you have—which you have described, under your supervision, was she paid on a piece rate, or was she paid in some other manner?

A. She was held to the average that she was making in the other section before she came over with me.

Q. What do you mean by that?

A. If she was making $1.10 an hour in the other section, we held her to $1.10 an hour until she could learn the operation. And she was still on that average when she left.

Q. (By Trial Examiner) How long does it normally take to learn the operation?

A. I would say six weeks.

• • • • • • •

[1038] Q. Do you recall whether or not she had any make-up pay during the time she was under your supervision?

A. Yes; she did.

Q. How frequently did she have make-up pay?

A. She had it quite often. It all depended on how the work was.

Mr. Sheinkman: How the work what?

The Witness: How the work was.

Q. (By Trial Examiner) What do you mean by the fact that you said in response to Mr. Thompson's question that she made production?

A. She did make production part of the time, and part of the time she didn't.

Q. (By Mr. Thompson) Mrs. Higgins, during the weeks that Evelyn Hudson had make-up pay, did she make production?

A. No.

• • • • • • •

[1039] Q. (By Mr. Thompson) Mrs. Higgins, I hand you a document which has been introduced in evidence and received, which is marked General Counsel's Exhibit 5, and ask you if you ever saw that letter posted on the bulletin board at the plant, or a copy of that letter posted on the bulletin board at the plant.

A. Yes.

Q. Approximately when did you and Mr. "Murph" discuss the prospects of laying off some of the people in your department?

A. Do you mean how long before—

Q. Over what period of time prior to the lay-off?

A. I would say two or three weeks before.

Q. Mrs. Higgins, did the fact that some of the people who were laid off from your department names appeared on that letter, which is General Counsel's Exhibit 5, have anything to do with whether you decided to lay them off?

A. No.

Q. Mrs. Higgins, did Pearl Coker ever tell you that she had attended a union meeting?

A. Yes.

Q. Do you remember about when she told you that?

[1040] A. No.

Q. Do you remember what month it took place in; or about what month it took place in?

A. Around the latter part of November or first of December.

Q. What did you say—tell us what she said, and then what you said.

A. She had told me that she had attended a meeting that—the night before, and I didn't make a reply.

Q. Did you say anything to her about who was there that would want a union?

A. No.

Q. Did you say anything to her about the Sharffs stating, in a supervisors' meeting, that they would close their doors before they would work a union?

A. No.

Q. Did you ever attend a supervisors' meeting where the Sharffs made such a statement?

A. No.

Q. Or any of the Sharffs made such a statement?

A. No.

* * * * * * *

[1042] Q. Are you familiar with whether or not Evelyn Hudson had any make-up pay during that second period of her employment?

A. Yes.

[1043] Q. Did she or did she not have make-up pay?

A. She continued to have make-up pay.

Q. How frequently did she have make-up pay?

A. Continually.

Q. What do you mean by continually?

A. She didn't never make more than 40 or 50% when she came back on this operation.

Q. 40 or 50% of what?

A. Of her production.

(Short recess.)

Trial Examiner: You may resume.

Q. (By Mr. Thompson) Are you familiar with whether or not Regina Hall made her production during the nine-week period when she was doing the same operation that Evelyn Hudson was doing?

A. Yes.

Q. Did she, or did she not, make her production?

A. She did.

Q. How regularly did she make her production?

Trial Examiner: What is the materiality of this testimony, Mr. Thompson?

Mr. Thompson: Mr. Examiner, the complaint alleges that Evelyn Hudson was discharged, and we continued

for a period of time to re-employ her. We did re-employ her, and then we discriminated against her again.

Trial Examiner: There is an allegation—I wasn't aware [1044] of the fact that she was discriminated against twice.

Mr. Joy: No, sir.

Mr. Thompson: If that is not the contention of General Counsel, then I won't pursue this further. It was my understanding that he was contending that.

Trial Examiner: I didn't understand it that way, and that's the reason I was a little bit puzzled by your questions.

Mr. Joy: There is no allegation of discrimination in the second discharge. That was not covered by the case at the time. I did take the position the other day that she was not reinstated to the same job from which she had been discharged, or laid off originally, a matter running perhaps to back pay, if any is involved. But it did not go into the subsequent merits of that.

* * * * * * *

[1045] Q. (By Mr. Thompson) Mrs. Higgins, did Evelyn Hudson ever make a statement to you after her re-employment that she was put on that job in order to get rid of her?

A. No.

Q. Did she ever make any statement anything like that to you?

A. No.

Mr. Thompson: No further questions of this witness.

Q. (By Trial Examiner) Mrs. Higgins, on the day that Evelyn Hudson was discharged the first time, or laid off the first time, were you present?

A. Yes.

Q. But you didn't tell her she was laid off?

A. No, I didn't.

Q. "Murph" did that.

A. Yes.

Q. But on the day Frances Elizabeth Johnson was laid off, you were out sick; is that right?

A. Yes.

* * * * * * *

[1047] Q. When she was doing repair work, was that time counted separately? Did she get paid on an hourly basis, or did that just run along with her total time, and reduce the amount of production?

A. It went along with her own time. I ripped, helped her rip plenty of work. Helped out to keep the line from going so slow.

* * * * * * *

[1048] Q. Isn't it a fact that she made production most of the time?

A. No.

Q. You are sure of that?

A. Yes.

* * * * * * *

Q. But after she was put on production, she never made production; is that right?

A. She did, at times.

Q. (By Trial Examiner) How often did she make production? Once in two weeks; once in four weeks?

A. Well, I can't recall the number of times.

Q. Twice—you don't recall how often she made production?

A. She would make it, maybe today, and tomorrow she wouldn't.

[1049] Q. Don't you figure production by the week?

A. We figure it by the day. I do.

* * * * * * *

[1052] Q. If it was easier for her to sew on, would that not have increased the quality and production?

A. It would have increased production. It wouldn't have increased quality; no.

Q. Why not?

A. Because we didn't need that much fullness in the lining.

Q. Now did you mean to say that every day over the six-month period that you had that discussion with her about wanting the lining cut an inch longer?

A. No.

Q. What did you mean when you said every day?

A. I said every day that I had to talk to her about her bad work.

Q. And how often did that—was that?

A. Every day.

Q. You are right back to every day. That you had to talk to her about bad work every day.

A. I would say yes; every day.

* * * * * * *

Q. (By Mr. Joy) Now in discussing the collar work, you stated that Mary Lou Partain's work was satisfactory on that Was that satisfactory as to quantity?

A. No. It was quality.

Q. As a matter of fact, she was the slowest operator of the [1053] section, wasn't she?

A. No.

Q. Who was the slowest?

A. She was called a utility girl, so we didn't expect as much out of her as one with a regular job.

Trial Examiner: Is that Mary Lou Partain you are talking about?

The Witness: Yes.

Q. (By Mr. Joy) Was she paid—As a utility girl, was she paid by piece work, or was she paid on a time basis?

A. She was paid on a time basis.

Q. We are referring, now, to the time that Pearl Coker was employed there. Was Mary Lou Partain paid on a time basis then, or a piece basis?

A. Well, I would say this: That she was paid part of the time—the first part of the time she worked there, she wasn't a utility girl, but then we later made her into one.

Q. That was after Pearl Coker had been terminated, was it not?

* * * * * * *

[1054] Q. (By Mr. Joy) Now referring to the time before she was made a utility girl, was she not the slowest operator in the collar section?

A. I wouldn't say she was the slowest. She was on the average of Pearl.

Q. Did she have more or less make-up than Pearl?

A. They were on about the same.

Q. Very close?

A. I would say very close.

Q. Was it not a fact that she had more make-up than Pearl did; regularly?

A. Repeat that again, please.

Q. I say, wasn't it a fact that Mary Lou Partain had more make-up than Pearl Coker did, regularly?

A. No.

* * * * * * *

[1061] Q. You never told that to Lucille Yancey; that if she didn't improve, she would be laid off or discharged?

A. I did to Mrs. Yancey; yes.

* * * * * * *

[1063] Q. Did you have any supervisors' meetings?

A. Yes.

Q. Regularly?

A. No.

* * * * * * *

Q. Did you ever discuss the union with any of your supervisors?

A. No.

Q. You never discussed the union.

A. No.

Q. Did you ever discuss the union with Mr. Morris Sharff?

A. No.

* * * * * * *

Q. Were you ever told by any of your supervisors not to say [1064] anything about the union?

A. No.

Q. Now on that day that you spoke to Coker—or, rather, Coker spoke to you about the union, am I to understand she just asked you a question and you didn't pursue it any further?

A. She didn't ask a question. She just told me.

Q. And what did you say? Nothing?

A. I didn't make any reply.

Q. When she spoke to you, did you usually not answer her?

A. No; I always answered. I just didn't—

Q. You had a friendly relationship with her, didn't you?

A. Yes, sir; at times.

Q. And you discussed other things, didn't you?

A. Yes.

Q. And usually when she started a conversation, you would reply; is that right?

A. Yes.

Q. Why didn't you reply this time?

A. Because I didn't want to.

Q. Nobody told you not to reply; is that the reason?

A. I just didn't want to. I just didn't make a reply.

Q. You weren't concerned about the union; is that right?

A. I knew it was trying—was being around: yes.

Q. Didn't you know that Morris Sharff was against the union?

A. No; I didn't know.

[1065] Q. You didn't hear him make a speech in the plant against the union?

A. No.

Q. Were you present in the plant when Morris Sharff made a speech about the union?

A. No.

Q. You weren't in the plant.

A. I heard him make a speech, but I didn't hear him state that.

Q. Did he speak for the union at that time?

A. I don't recall too much that was in the speech.

Q. Do you recall anything that was in the speech?

A. Well, he told us that he was down as our friends; he wanted to help us.

Q. Did he speak against the union? Did he say—

Trial Examiner: Let her finish the answer. Don't interrupt the answer. Go on and tell us what else you remember about the speech.

A. (Continuing) And he told us he wasn't a part of the company. He was just an advisor.

* * * * * * *

[1066] Q. Would you say that the speech was primarily about the question of union, or not?

A. No.

Q. You think the speech was primarily not about the union. Is that the way I understand?

A. Not about the union.

Q. (By Mr. Sheinkman) Was the supervisors' meeting before or after he made the speech?

A. The supervisors' meeting was just before Christmas.

Q. Wasn't the speech made in early December?

A. I don't recall just the time that it was made.

Q. I will ask you again, do you recall whether or not your supervisor's meeting was before or after this speech?

A. I don't recall just the time it was. It was just before Chrismas, when we discussed our Christmas bonus.

Q. Did you ever discuss the question of the union with any other supervisors?

A. No.

Q. Not at all; ever.

[1067] A. No.

Q. Did you ever discuss it with any workers in the plant?

A. No.

* * * * * * *

[1072] Q. Now when was the first discussion about her discharge, rather than about her work?

A. Two or three weeks, I would say, before.

Q. Two or three weeks before she was discharged was the first time you discussed with Mr. "Murph" the question of discharge; is that right?

A. I would say no. I will explain it like this: The full time after we got started, that we were there, it was a matter whether I kept her, or not. For she was very uncooperative. And it just got to the point that I couldn't take it any longer.

* * * * * * *

[1073] Q. (By Mr. Thompson) Are mistakes made as frequently as you have described Lucille Yancey making mistakes? Regular thing—

A. Regular—

Q. (Continuing)—in the garment business?

A. No.

[1074] Q. Are they a regular thing in this plant?

A. We make them occasionally now, but not like we did then.

Q. Is the frequency and the volume of mistakes that she made a matter of general practice? Were her mistakes any more than normal?

A. Yes.

* * * * * * *

[1075] JERRY CARTER.

* * * * * * *

[1078] Q. Which was she; laid off or discharged?

A. She was laid off.

* * * * * * *

[1080] Q. What were the—Do you know the factors which were taken into consideration?

A. Yes, sir.

Q. Leading to her lay-off?

A. Yes, sir.

Q. What were those factors?

A. Well, it was just like any other case. There just wasn't enough work for them to do, and we have to—we had to give that work to the girl that was making the flaps.

* * * * * * *

[1087] The Witness: Doris Haulk.

Q. (By Mr. Thompson) Who, if anybody, is doing the job that Nellie Hood did when she was there? In other words, who is your Nellie Hood now?

A. I am my Nellie Hood!

Q. Has anyone replaced Nellie Hood and taken over the job that she did before you laid her off?

A. No, sir.

* * * * * * *

[1091] Trial Examiner: Made and sewed down vents.

Q. (By Mr. Thompson) Mr. Carter, after Lucille Griffith was laid off, who took over her work? The work that she was doing?

[1092] A. No one.

Q. What became of it?

A. Well, you see we have four pocket girls, and the ones we kept, they did her work.

Q. What were the factors which led to the decision to terminate Lucille Griffith?

A. Just poor quality.

* * * * * * *

[1096] Q. Did you ever say anything to Frances Elizabeth Johnson about union people riding around in big cars?

A. I don't remember if that was the exact words, but I believe I do remember saying something to that effect.

Q. Approximately what did you say? Tell us as near as you can what you said.

A. I probably said that all I knew about the union is that I see them driving around in big automobiles.

Q. Was anything else said—

Trial Examiner: Union drives around in big automobiles; union organizers drive around in big automobiles?

The Witness: Folks; I believe I said union folks. I don't remember exactly, but that, I believe, was the substance of it.

* * * * * * *

Q. What did she say?

A. She said she didn't know anything.

Q. What else was said?

A. That was all that was said.

* * * * * * *

[1097] Q. Was there anything else said at that time?

A. No, sir.

* * * * * * *

Q. Was there anything else said between you and Nellie Hood, other than what you have just related, about saying she told you a story?

A. That's all.

Q. What happened when you said that?

A. She just laughed, and turned and went on.

* * * * * * *

[1100] Q. (By Mr. Joy) Did Margaret Britt ever try out on Violet Ewing's job?

A. Yes, sir.

Q. You testified a while ago that after Violet Ewing was laid off, Margaret Britt performed her work. Did she perform all of Violet Ewing's work and all of her own work?

A. Yes, sir.

Q. No help?

A. No help. She did all of it.

* * * * * * *

[1102] Q. Do you remember whether the discussion with Mr. "Murph" preceded, or was close to the lay-off, or was far back from the lay-off; do you remember?

A. He talked to me the day that they were laid off.

Q. Is that the first time he talked to you?

A. No; he had discussed it previously.

Q. How long belore; do you know?

A. Oh, I would say a couple of weeks.

Q. (By Trial Examiner) What did he say to you at that time? When you discussed it, a couple weeks prior to the lay-off?

A. Well, we just talked about the quality and—

Q. No. Just what did Mr. "Murph" tell you at that time? You say you discussed the lay-off. Now just what did he tell you at that time?

[1103] A. Well, he told us that we were having a reduction in our work, and there were some of them that we were going to have to cut some out.

Q. What else did he say?

Mr. Thompson: Mr. Examiner, I object to the interruption of the witness. He is trying to explain what was said.

Trial Examiner: Your objection is overruled.

Q. (By Trial Examiner) What else did he say?

A. I don't remember just what else he said. That was all that he said. We just talked about the different, various girls' quality, and where in spots that we would have to cut back.

Q. Now who first mentioned Bonnie Hamilton? Did Mr. "Murph" first mention Bonnie Hamilton, or did you?

A. I think it was myself that mentioned Bonnie Hamilton.

Q. As a person to be laid off?

A. Yes.

Q. And who first mentioned Violet Ewing?

A. It was myself.

* * * * * * *

[1104] Q. Just what did he say about reduction in force?

A. He just simply stated that we were—our work was being cut, and we had to reduce some of our employees.

Q. Did he say how many you should recommend for reduction?

A. No.

Q. These names that you suggested, the two names that you suggested, did you tell Mr. "Murph" you could get along without [1105] those two girls?

A. I told him that I thought with the help we had, that we could keep up all right with what we had to do; and that we could get along without them; yes, sir.

* * * * * * *

Q. You felt like you could get by with six fewer employees?

A. That's right, sir.

Q. And you were the one that suggested five out of six names; is that it?

A. Yes, sir.

Q. (By Mr. Sheinkman) Did you ever discuss the question of lay-off with Morris Sharff?

A. Mr. Morris?

Q. Yes; Mr. Morris. Do you remember you testified before you asked Nellie Hood what she knew about the union; is that right?

A. Yes.

Q. What prompted you to ask her that question?

A. I was just asking her a question. I meant by that was she—

[1106] Q. I just asked you that.

Mr. Thompson: Mr. Examiner, the witness was asked for his motivations and he is attempting to explain his motivations. He is certainly entitled to explain his answer to the question, and I request he be permitted to do so.

Trial Examiner: He will be permitted to do so. What were you going to say?

The Witness: I was just going to say what I meant by that was did she think it was a favorable thing, or unfavorable thing.

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[1108] Q. Mr. Carter, did the fact that some of the people who were laid off from your department's names appeared on General Counsel's Exhibit 5 have any effect, or was it taken into consideration, in making your decision over who should be laid off?

A. Not whatsoever.

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[1109] EDNA ATHA.

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[1111] Q. (By Mr. Thompson) Was there any rule at the Loganville Pants Company plant concerning talking during working hours?

A. Well, the employees weren't supposed to talk during working hours very much. That would slow the work down. They weren't supposed to talk during working hours.

Q. Was there any rule concerning the subject matter over which they were permitted to talk during working hours? Were they confined to any particular subjects that they could talk about?

A. No.

Q. Were they told, as far as you know, that they were not [1112] to talk about any particular subject?

Mr. Sheinkman: I object to the form of the question.

Trial Examiner: I see nothing objectionable.

Mr. Sheinkman: He is leading the witness.

Trial Examiner: I don't see that it is leading. Overruled.

Q. (By Mr. Thompson) Mrs. Atha, do you know whether or not there was any rule at any time while you were employed at the Loganville Pants Company concerning whether or not the employees were permitted to talk during the lunch hour and during the break periods?

A. No.

Q. Are you saying there was no such rule, or are you saying you know of no such rule?

A. I know of no such rule.

Q. Do you know whether or not—

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Q. Was there any rule at the Loganville Pants Company prohibiting employees from discussing any particular subject during their lunch hour or while they were on breaks?

[1113] A. No. I know of no such rule.

* * * * * * *

Q. (By Mr. Thompson) Were the employees at the Loganville Pants Company ever instructed that they were not to discuss the unions on company property, so far as you know?

A. No, I didn't ever hear of such rule.

Q. (By Trial Examiner) What rule was there, Mrs. Atha, regarding talking at the plant? Tell me all the rules that there were regarding that there were regarding talking.

A. Well, when a girl is working she is not supposed to be talking.

Q. So that you had a rule against talking while working.

A. Well, they could speak. Sure, they could speak. But not continuously talking while working during working hours.

Q. Now you say that that was a rule. Was this rule put up on the bulletin board, or given to the employees, or how did the employees find out about this rule?

A. Well, Mr. Hughley would tell me the girls were talking too much during working hours. They would have to not talk so much, and not work—I mean, and work.

Q. This was an individual thing from time to time that he would call to your attention.

A. Yes.

Q. There was no rule on the bulletin board, was there, saying [1114] that you couldn't talk while you were working?

A. No.

Q. Were there any rules posted on the bulletin board?

A. No.

Q. Was there any book of rules, or any instructions given to any employees when they were hired, as to their conduct in the plant?

A. No.

* * * * * * *

[1116] Q. Did you ask all the girls that question?

A. No.

Q. Were you acting on any instructions from Mr. Hughley, or anyone else, in asking that question?

A. No.

Q. Did you ever discuss unions again with the people you had asked the question?

A. No.

Q. Do you recall an employee at the Loganville Pants Company by the name of Lela Beaver?

A. Yes.

Q. What work did Lela Beaver do?

A. She set flys.

* * * * * * *

[1117] Q. (By Mr. Thompson) Mrs. Atha, did you have anything to do with the training of Lela Beaver?

A. Yes.

Q. What period of time did you spend training her?

A. Well, about four weeks.

Q. Did you train any of the other girls?

A. The period of training of Lela Beaver?

Q. Yes.

A. Yes. About four weeks.

Q. Did you train any of the other girls who were employed by Loganville Pants Company?

A. Yes.

Q. From your experience in training these personnel, did Lela Beaver develop her skills at the same pace, or at a satisfactory pace to the other girls that you trained?

A. No.

Q. What was the experience there?

A. Lela Beaver was slow in learning.

Q. Now were you employed at the Loganville Pants Company at the time the operation of that company was discontinued?

A. Yes.

Q. Was Lela Beaver employed there at that time?

A. Yes.

Q. What became of the employees? What was done with the employees of the Loganville Pants Company at the time the company [1118] ceased operation?

A. Well, we had to lay the girls off.

Q. Did you lay them all off, or—

A. The ones we couldn't use.

* * * * * * *

[1119] Q. Did you ever make—do you recall ever making a statement to Lela Beaver to the effect that the plant might get more work if the union would ever leave them alone?

A. No.

Q. Did you ever make such a statement?

A. No.

Q. (The Trial Examiner) Did you make any statement about the union to Lela Beaver?

A. No.

* * * * * * *

[1121] Q. What did you say?

A. And she said, "I'm afraid I am going to lose my job. I don't want to lose my job. I have two children to support." And I said, "Well, don't worry about it."

Q. Was there anything else said?

A. No.

Q. Did you ever have any other discussion about Pauline Spratlin about unions?

A. No.

Q. Did you ever have any discussion with Nellie Wood about unions?

A. No.

* * * * * * *

[1125] Q. With respect to Lela Beaver, you said she was slow in learning. Was she not one of the better ones, as far as make-up was concerned?

A. No.

Q. Did she have make-up?

A. I don't know how much make-up.

Q. You don't know how much any of them had?

A. No; I don't know how much any of them had.

Q. So far as you know, did any of them make production and not have make-up?

A. Well, I know of one girl that had—made production.

Q. Who was that?

A. Vada Simpson. The rest of them had make-up, and I don't know how much.

* * * * * * *

[1131] Q. Well, had you heard any talk about the union before you asked her that question?

A. Yes.

Q. Where had you heard talk about the union?

A. Some of the girls were telling me about having visitors.

Q. I see. And after she answered the question, what else did you say to her? Nothing?

A. No.

Q. After you asked Nancy Williams the question, you didn't say anything else either.

A. No.

Q. And you say you asked the other girls. You asked no other questions other than that one question.

A. No.

Q. What was your purpose for asking the other girls when you don't remember this question? Do you remember? Just conversation?

A. Yes.

* * * * * * *

[1133] Q. Do you remember asking a question of Lela Beaver what Nellie Wood was doing talking to her? Is that right? When you saw Nellie Wood talking to Lela Beaver.

A. No; not to Lela Beaver.

Q. Pauline Spratlin. Excuse me. Is that right?

A. Yes.

Q. Was this unusual for Nellie Wood to be talking to Pauline Spratlin?

A. Well, when a girl that didn't work there, from another plant came in, that's why I asked her. She just walked—

Q. She just walked into the plant? Nellie Wood?

A. Yes.

Q. Do you remember when this was?

A. No.

Q. Wasn't this during lunch hour?

A. Yes.

Q. Is it unusual for a girl from Walton to come over to the plant of Loganville during lunch hour?

[1134] A. It is unusual?

Q. Yes.

A. If a girl comes up there, I am supposed to find out what they are doing there. If an outsider comes in.

Q. Hadn't you seen Nellie Wood in the plant before?

A. Yes.

* * * * * * *

[1145] I. S. PROSTERMAN.

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[1148] A. She didn't do her work correctly. The finished product, after it left her hand, was not correctly sewed.

Q. What portion of the coat did Lucille Yancey at that time sew?

A. She sewed the lining to the facing.

Q. And what was it about the sewing of the lining to the facing that she was not doing properly?

A. She was unable to distribute her fullness properly.

Q. Were there any other factors which led to the conclusion that she was not doing her work with proper quality?

A. Additional other factors?

Trial Examiner: Any factors.

A. Additional quality factors were errors in joining of her linings. She would sew the wrong lining to the wrong facing, occasionally. Other factors were that because of the fact she was unable to produce the quality

work that we required, and she was unable to make her minimum. In other words, she had make-up, to a great degree, and we were unable to bring her to a satisfactory production status with the proper quality at the same time.

Q. Now did you ever discuss this with her supervisor?

A. Yes.

[1149] Q. Did you have, in the regular course of your business, any reports from her supervisor, concerning the work of Lucille Yancey?

A. Yes.

Q. And what were those reports?

A. That her work was bad. That she was unable to correct this girl. That she had corrected this girl, but that the operator was unable to perform properly.

* * * * * * *

[1152] Q. And what did you do, if anything, preparatory to the layoff?

A. Well, the first thing I did was to discuss this matter with Mr. Morris regarding the extent—

Q. Mr. Morris Sharff?

A. Mr. Morris Sharff. (Continuing) —regarding the extent of the curtailment of production that would be required. Then, having received from him an approximation of this figure—

Q. And was—what was the approximation?

A. The approximation was a curtailment from approximately 450 garments a day to approximately 300 garments a day.

Q. All right, sir. What else did you do, if anything?

A. I took down the list of all of my operatiors, by sections, and started to determine in my own mind and by

individual consultation with various supervisors and my own observation of these operators, which operators I would like to retain and which I thought would be released.

Q. When you say "individual consultation with supervisors," did you meet with the supervisors in meetings, or did you meet with them individually?

A. Well, actually, I can't say I met with them. I engaged [1153] them in discussions at various times regarding certain operators.

Q. Now what period of time did this take place?

A. Well, I would say approximately early December, as I have stated before, oh, up until the time of the lay-off, or shortly before.

Q. Mr. Prosterman, I hand you a document which has been received in evidence as General Counsel's Exhibit No. 19. I will ask you if you will identify that exhibit for us, please, sir.

A. Yes. These are my preliminary notes that I made preparatory to determining the extent of the lay-off, and who should be laid off. And I believe also tentative recommendations.

Q. When were those drawn up?

A. That's in December.

Q. What did you use those notes for? What were they for?

A. They are merely as a guide to final conclusions.

Q. Conclusions toward what?

A. Toward who should be laid off and who should be retained.

* * * * * * *

[1155] Q. (By Mr. Thompson) Mr. Prosterman, in arriving at your determination as to which employee should be laid off, was any consideration given to the make-up of employees who were doing different jobs than the one that was under consideration?

A. No, sir.

Q. Mr. Prosterman, in arriving at your decision as to which [1156] employee would be laid off and which retained, was it done on a plant-wide basis, or was it done on a departmental basis, or was it done on a job basis, or what exactly was the limitation of your consideration in comparing employees?

A. I would say it was done on a section basis, wherever possible, because we find that in various situations there were operators within a section, though performing different operations in that section, were capable of assuming each other's operations. Therefore, I say in most cases it was on a sectional basis; within the section.

Q. Now in reaching this determination, did you give consideration to other workers, or other jobs outside the sections?

A. No.

* * * * * * *

[1179] Q. What was the nature of the bad work that you refer to?

A. The nature of the bad work: She left holes open on the under-collar; failed to fell them down completely to the coat. Failed to distribute the fullness of the under-collar properly.

* * * * * * *

[1181] Q. (By Mr. Thompson) Who fired Pearl Coker?

A. I did.

Q. Are you familiar with Pearl Coker's record on make-up pay?

A. Yes, sir; I am.

Q. Are you familiar with Hester Lou McCart's record on make-up?

A. Yes, sir; I am.

Q. Was there any comparison between the make-up of those two people involving the lay-off or the discharge of Pearl Coker?

A. Well, the comparison was that Hester Lou McCart had no make-up. In fact she had a very good earning record; production record; whereas Pearl Coker was constantly on make-up.

Q. (By Trial Examiner) Was make-up a factor in discharging Pearl Coker?

A. Yes, sir; it was.

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[1184] Q. Was Bonnie Hamilton laid off or discharged?

A. She was laid off.

Q. When was she laid off?

A. January 31st.

Q. Of what year?

A. 1958.

Q. And what were the factors which led to her lay-off?

A. Well, I was required to cut the production of the section and I determined that Lucille Yancey was the one

best qualified and the most competent. And therefore I laid off Bonnie Hamilton.

* * * * * * *

[1188] A. Well, Charlotte Finley had done this work previously. The only training she required was not to learn the operation, but to gather speed.

Q. (By Trial Examiner) What kind of training does that require, other than practice?

A. Just time; that's all.

Q. In other words, Geneva Harris was just helping her make up some production she couldn't keep up with; is that right?

A. That is correct.

Q. (By Mr. Thompson) Now is Geneva Harris still helping her keep it up?

A. Since that time that particular operation was eliminated.

Q. Which operation?

A. Bottom hem basting was eliminated. A short time thereafter. Within a matter of weeks.

Q. Who does bottom hem basting now?

A. This operation is now being combined with the edge basting operation.

* * * * * * *

[1203] Q. (By Mr. Thompson) Is flap making a mechanical operation?

A. Flap making is definitely not a mechanical operation.

Q. Is there anybody in the plant now who is spending most of her time sewing on pocket facings?

[1204] A. No. I would consider that particular job approximately a 3 1/2 to 4 hour a day job.

Q. (By Trial Examiner) Which is a 3 1/2 to 4 hour a day job?

A. The sewing of pocket facings.

Q. The person that is sewing pocket facings now, what else is she doing?

A. She does a variety of other jobs on collars.

Q. What sort of jobs?

A. Well, she joins the—

Q. Mechanical operations, or—

A. Mechanical, mostly.

Q. Simple jobs.

A. One of her jobs is a simple job and the other job is not so simple. Would you like me to name these jobs?

Q. Please.

A. She joins the under-collar seam. This is done with a plain sewer and a cutting attachment. Fairly simple job. She bastes the collar edge. This is done with a machine similar to an edge-baster.

Q. Difficult, or simple?

A. Fairly difficult. Not terribly difficult. She must watch the edge, that it is smooth and straight. She also trains the edges of the collars. This is a difficult job. This is not a sewing machine, although I do the operation on [1205] a sewing machine with a cutting attachment.

* * * * * * *

[1208] Q. All right. Go ahead.

A. As it was reported to me, that's what happened. That's what we mean when we term Ida Harper—

Q. (By Trial Examiner) —as contrasted with which Geneva Harris was solid.

A. We considered Geneva Harris a solid, steady operation. Sat at her work and did it.

* * * * * * *

[1210] Q. (By Mr. Thompson) Mr. Prosterman, what was Ida Harper doing at the time she was laid off?

A. Felling the bottom lining.

Q. And what was Geneva Harris doing at the time she was laid off?

A. Felling the bottom hem.

Q. After Ida Harper was laid off, what was Geneva Harris doing?

A. She did Ida Harper's work in addition to her own.

Q. What was that?

A. Felling the bottom lining, and the bottom hem.

Q. Now at the end of four weeks after Ida Harper had been [1211] laid off, what was Geneva Harris doing?

A. Geneva Harris felled the bottom hem, but this operation had been increased to where she didn't have as much time to do the other operation.

Q. (By Trial Examiner) In what respect was it increased?

A. The stitching was lengthened. In other words, the amount of stitching was increased.

Q. (By Mr. Thompson) Is that the amount of stitching per garment, or amount of garments?

A. The amount of stitching per garment.

Q. All right. She was doing that. Was she doing anything else?

A. Yes. She still continued to do part of the bottom lining felling.

Q. Would anyone else do part of the bottom lining felling in addition to her?

A. Charlotte Finley.

Q. And was Charlotte Finley doing anything else other than bottom lining?

A. Her own job.

Q. From that time on, did anybody do the work that Ida Harper was doing at the time she was laid off, and nothing else?

A. No.

Q. Is anybody doing that now, and nothing else?

A. No.

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[1214] Q. What were the factors which were taken in consideration in determining to lay off Frances Elizabeth Johnson?

A. Well, it was necessary to cut back our production in that section, and I felt that that particular operation combined with the pocket-making operation would give me the necessary production in that section, and since the--

Q. What section are you referring to?

A. I am referring to the lining making section.

Q. How many people were in that section?

A. Approximately four.

Q. (By Trial Examiner) What did you call that section?

A. Lining making section.

Q. (By Mr. Thompson) What operations do you include in that section?

A. The sewing of the facing to the lining, the sewing of darts on certain types of lining; certain models carry certain darts.

[1215] Q. Who was performing that operation?

A. Well, when there were darts to be sewn, this was also done by the operator—let me say this was normally done by the operator who sewed the facings.

Q. Who was that?

A. That would be Frances Elizabeth Johnson.

Q. All right, sir.

A. The setting of the pocket was another operation.

Q. Who performed that operation?

A. That was done by two operators; Imogene Meeks and Odelle Barnes. Then another operation was the making of the backs. In the fully lined coat is called making of the back. In the half-lined coat, which was the majority of our work, it is called making the yoke. That was performed by Annie Brooks. There is another operation which was performed by—usually by a utility operator, and that is the sewing of the pocket facings.

Q. Who was doing that?

A. That was usually done by Mary Lou Partain.

* * * * * * *

[1217] Q. All right, sir. Now what did Nellie Hood do, as a floor—

[1218] A. She matched various types of work. She matched pockets into coats for the pocket makers. She matched backs and fronts for the side seamer. She marked fronts for welt pockets. You might say she was a bundle girl.

Q. Was she ever terminated?

A. She was terminated on January 31, 1958.

Q. Was she discharged or laid off?

A. She was laid off.

Q. What were the factors which led to her lay-off?

A. Well, in view of the necessity for cutting back personnel, and the fact that her work was very, you might say unskilled work, we felt that we could absorb that work among our other people.

Q. After she was laid off, what became of her work; who did her work?

A. Well, it was done partially by Jerry Carter.

Q. Who was Jerry Carter?

A. Jerry Carter was the supervisor.

Q. Go ahead.

A. And partially by various other operators who would have time to spare. Any operator that had a half an hour here and there, we put on to help.

Q. Since Nellie Hood was laid off in January—January 31, 1958—who has done—who, if anyone, has done the work which she did, and no other work?

[1219] A. No one, until we found it necessary to assign someone to that job full time, at which time we re-hired Nellie Hood.

Q. And when was that?

A. I don't have the date of her re-hiring.

Trial Examiner: July 18th?

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[1221] Q. What were the factors which led to the decision to lay off Nellie Wood?

A. With Nellie Wood it was simply a question of cutting back, because we didn't need Nellie Wood in that

particular operation. We didn't need her production. And since the other two girls had been on the job a longer period of time, we had no reason to retain her.

Q. Since the lay off on January 31st, who if anyone has done the work which Nellie Wood was doing, and no other work?

A. No one.

Q. In reaching your decision to lay off Nellie Wood, as opposed to other people, did you take into consideration any other employees other than Starrett and Bowen?

[1222] A. No, sir.

Q. In reaching your decision to lay off Nellie Wood, did you take into consideration any other operations other than the ones which she had been doing?

A. No, sir.

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[1236] Q. (By Mr. Thompson) Do you recall an employee by the name of Frances Allen?

A. Yes.

Q. What was Frances Allen hired to do?

A. She was hired to make vents.

Q. Were there any employees who were laid off on January 31st, who made vents?

A. No.

* * * * * * *

[1237] Q. Did you take into consideration any of your people who were presently working for the filling of vacancies at any time?

A. At every time. Whenever I had to fill a vacancy I would also consider the people who were working, before going to the outside.

Q. Now in the event you didn't have somebody in your work force to fill the vacancy, what did you do then?

A. Well, there were several ways. Occasionally I would have applications from operators who had applied for work. I would sometimes ask other operators if they knew of certain people that might qualify for any particular job. I asked the supervisors if they knew of anybody. I believe that's about it.

* * * * * * *

[1247] Q. (By Trial Examiner) Mr. Prosterman, what did you do in cases where girls were required to fix something which had been poorly made the first time by some other operator; some other employee? That occurred, did it not?

A. Operators were not required to fix other operators' work on their own time; unless they were utility operators, or unless they were working on time work and not piece work. When a piece worker had to fix work that another operator was responsible for, she was either paid time work for it, or she was given an allowance to offset the loss in time.

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[1255] SARAH SANDERS.

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[1260] Q. (By Mr. Thompson) Do you know what part of the coat Grace McCart sewed?

A. Collar.

Q. And what part of the coat were you supposed to slightly inspect?

A. Collar.

Q. And did you ever find any defects in that portion of the coat; the collar?

A. Yes.

Q. Do you recall whether you found defects over a period of time, or whether you just found them once in a while? Do you recall? In the collar?

A. I just found a good many.

Q. Do you find as many now as you used to find in the collars?

A. No, sir.

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[1265] I. S. PROSTERMAN,

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Cross-Examination (Cont'd).

Q. (By Mr. Joy) Mr. Prosterman * * * [1270] What did he tell you this time?

A. He told me that due to a general business situation, it was very possible that a cut-back would be necessary, and that I should figure out what to do in the event that a cut-back would be necessary.

Q. At the time he said this to you, was only that a cut-back would be possible; is that right?

A. That's right.

Trial Examiner: When was this?

The Witness: Early December.

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[1309] Q. (By Mr. Thompson) Mr. Prosterman, what was the occasion for re-hiring Pearl Coker?

A. We lost an operator from this section by the name of Hester Lou McCart. She quit.

Q. What section are you referring to?

A. The collar-setting section.

Q. What was the occasion for re-hiring Violet Ewing?

A. Mary Lou Partain quit, and we hired her to work in Mary Lou Partain's place.

Q. What job did you re-hire her for?

A. Well, only part of Mary Lou Partain's abilities, you might say.

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Q. (By Mr. Thompson) What job does she do now?

A. She sews pocket facings for linings; joins the side seams of full-lined coats, boys' coats; assists in joining of shoulder [1310] linings and to the present time that is all that I know that she has been able to do.

Q. Mr. Prosterman, what type jobs are they; are they skilled jobs or mechanical jobs?

A. They are very simple, mechanical jobs.

Q. Mr. Prosterman, when you put Mary Barnes back to replace Annie Brooks, why didn't you put Evelyn Hudson in that job?

A. Well, in my judgment I considered Mary Barnes more of a type of an operator I would like to have on that job.

Q. What factors, if any, entered into that consideration?

A. Well, mainly it was due to the fact that Mary Barnes was used to handling lining. You see, the sleeve-makers—when she worked as a sleeve-maker, part of the job was the handling of two pieces of lining, putting two pieces of lining together, and that was a very great deter-

mining factor in putting her back to work. The handling of lining is difficult to learn. And I felt that it would cost us less money to break in Mary Barnes on that particular job than Evelyn Hudson.

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Q. (By Mr. Sheinkman) Would it have cost you less money to have trained Pauline McGee on that job than Mary Barnes?

A. Oh, I think it would have cost us a lot more money to train Pauline McGee on that job than Mary Barnes.

Q. How about Bonnie Hamilton?

[1311] A. Yes. Definitely.

Q. How about Violet Ewing?

A. I think so.

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[1319] Q. Did Pauline McGee have difficulty in making production

A. Pauline McGee never made production.

Q. She never made production?

A. No.

Q. Any other girls in that operation make production?

A. Yes.

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Q. (By Mr. Sheinkman) How about Violet Ewing? Did she have more skill than Mary Barnes in her job?

A. I would say that Violet Ewing had adequate skill.

[1320] Q. Did she have more skill than Mary Barnes?

A. No; I wouldn't say that she had more skill than Mary Barnes.

Q. Before her lay-off was she performing a more difficult job, or a less difficult job, than Mary Barnes?

A. Oh, a much less difficult job than Mary Barnes.

Q. How about Frances Johnson? Was she performing a less difficult job, or more difficult job than Mary Barnes?

A. A less difficult job.

Q. And how long had Mary Barnes been working there?

A. How long had Mary Barnes been working—

Q. Yes. At the plant. Before her lay-off.

A. I believe she was hired some time during the month of July, 1957. I am not certain of it.

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[1322] Q. And in making your selections for discharges and lay-offs I presume that you did not consider the union affiliation or lack of affiliation of these employees who were discharged or laid off as having any factor in connection with the lay-off or discharge.

A. That is right. That had no bearing upon my decision at all.

Q. Now when did you first learn, after coming to the Walton Manufacturing Company plant, that Lucille Yancey was not a desirable employee?

A. Well, I learned that very, very shortly after I came there. I would say within two weeks.

Q. That would be the middle of September?

A. Yes, sir.

Q. And did you receive reports from her supervisor with regard to that fact?

A. I did receive reports.

Q. And how often did you get those reports?

[1323] A. Well, for a while I was getting those reports fairly constantly, practically daily.

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Q. Now I think you said that early in December Morris Sharff spoke to you about the fact that business situations—I think you said the business situation might require a lay-off in the future.

A. Might require a cut-back, and subsequent lay-off.

Q. Now was that all he said?

A. That was all, as I recall.

Q. To the best of your present recollection when did he say that to you?

A. Some time in early December, sir. I can't pin-point it any closer than that.

Q. Was it before or after you discharged Lucille Yancey?

A. It was in and about the same time, but I can't tell you whether it was before or after. I would say it was either immediately before or after.

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[1324] Q. Now what if anything happened in early December, which caused you to discharge Lucille Yancey at that time?

A. Well, Lucille Yancey was doing bad work, it's true—

Q. Now she has been doing bad work for all the time that you [1325] have been working for the company—

A. That's right, but there were—

Q. (Continuing) —and she had been an unsatisfactory employee.

A. And had been an unsatisfactory employee.

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[1326] Q. What circumstance or occurrence occurred on January 10th to require Grace McCart's discharge on that date, rather than prior to that date?

A. Well, I think in connection with that you might say I had this other girl available, and we had been having to put up [1327] with this bad work which required repairs for so long a time that it just all came to a head, and I decided that we had just taken enough, and we had this other operator available, I wanted to take a chance with this other operator and try her out.

Q. What about Pearl Coker? Was her work unsatisfactory right along?

A. Her work was unsatisfactory during the early part of the time that I was there; when I first came there. Her quality improved. Her quality did improve. However, I had to look at another side of this particular question. I am responsible for the costs in the factory, and if I have the opportunity of employing two girls who could produce, make good money and get me my production with better quality, I figured that that's what I should do.

Q. What made you decide that on January 17th, that particular day, to discharge her?

A. Well, I don't know about that particular day, but this girl, who we subsequently re-hired to come into the section, had sent word along in about that time through her sister that she was available for work, if we wanted to take her back, and that was why I decided to vacate the

position in order to make room for this girl to come back onto the job.

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[1328] Q. When you said there is no other job in the plant which required similar skill, that is not correct; is that right?

A. No; it was correct; because actually the similar operation I have reference to, although it makes the same type of stitch, it employs an entirely different type of machine and the work is entirely different, and there is no comparison between the two jobs.

Q. Is there any other job in the plant similar to basting [1329] bottom hems?

A. There is one very small job which—sewing a seam approximately so big on a basting machine, and even that is not done on the same type of machine. That's also a similar job. Very, very small job.

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Q. Did you consider that when you decided to lay her off?

A. Yes; I did consider that.

Q. Then nevertheless, you did not.

[1330] A. I did not retain her, because there was not enough work to keep three operators busy. There was just enough to keep two.

Q. Why did you retain the other two?

A. Well, because they were better operators. They were hired before Nellie Wood.

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Q. And at that point you gave her help; a girl by the name of Geraldine, whose last name you didn't remember.

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Q. What was this girl, Geraldine Lacey, doing at that time?

A. She did an operation known as second facing basting.

Q. Could Nellie Wood have done that job?

A. No. Nellie had never trained for that job.

Q. Did you consider training Nellie Wood for that job?

A. No.

Q. Did you consider Nellie Wood at all, as compared with Geraldine Lacey?

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[1335] Q. (By Mr. Thompson) What does Mr. Stevens do at the plant?

A. What does he do at the plant?

Q. Yes, sir.

A. Well, he is a sort of a man of all work, sir. He sweeps, and runs errands, and goes to different places for us; picks up the mail; takes the mail; a variety of things.

Q. Is he a supervisor?

A. No. No supervisor.

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[1358] Mr. Thompson: * * * We are not conceding that he was ever contractually employed, or was ever officially connected with, the corporation.

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[1359] Mr. Thompson: Mr. Examiner, I think I should state—I should repeat, that we are not conceding that he was either an officer, a director, a stockholder, or a paid employee of this company.

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MORRIS SHARFF.

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[1361] A. Yes. We thought that to start out an operation like that at the beginning that it would take 110, or 120 people to do that.

Q. Now subsequent to that time was this number of people that you needed to turn out your production ever reduced?

A. Oh, yes. In starting a shop, you always need more people to start it than you will eventually, because as the operators [1362] gain the knowledge of the operation, and learn the operation, and later on pick up the speed, and where you might have three or four operators doing one particular job, you may eventually end up with only two.

Q. What does this result from?

A. Well, this results from an increased knowledge of their job in learning how to handle the material better that they are feeding into the sewing machine, and, generally, experience of an operator on that particular operation that they are working on.

Q. Now did that take place at the Walton Manufacturing Company?

A. It took place, and it is still taking place.

Q. Would you give us an example of what you are talking about in, say, one operation?

A. Well, I remember very distinctly on collar-setting; attaching the collar to the coat; that there was a time, there, when there were about eight collar-setters. I think that their total production could not have been more than 275, 300 a day. After several weeks they learned their job a little better and production picked up a little bit, and probably one was dropped off at that time. And then a few weeks later, another; and so on down the line; until for 500 coats, you would probably only need about three operators, and for 300 coats, you would need two operators.

[1363] Q. That's in that particular operation?

A. Right.

Q. Now have there been any other reductions in the work force at the Walton Manufacturing Company?

A. It happened throughout the whole plant, and particularly in another section, the side pocket making. Pretty much the same situation existed there, where there were eight or ten side pocket makers and gradually their production—in fact the number of employees was cut back to four, who currently can turn about—turn out about 350, 375 pairs of side pockets a day.

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Q. Has there been change in that setting of so many per day since the time it began?

A. Oh, yes. It has been changed to 300 to 350 a day.

[1364] Q. When did that change take place?

A. That change took place—it was planned for—actually took place January 31, 1958.

Q. Now how many garments were you making prior to January 31, 1958?

A. Well, we had reached a top peak, I think, of about 21, 2200 a week.

Q. Now subsequent to January 31st has there been any change in the volume of production?

A. Oh, yes. It went very sharply down. And went down to a volume of about 1500, 1600 a week.

* * * * * * *

[1367] Q. I believe you stated that you had a lay-off around January 31st.

A. Yes, sir.

Q. Was that a seasonal lay-off, or was there some other reason for the lay-off?

A. No. There was a cut-back of employees to—due to cut-down on production.

Q Do you ever have seasonal cut-backs in this business?

A. You have a seasonal cut-back in the sense that you don't need as many garments per week, so you work partial weeks. In other words, you would work your shop two or three days per week. You would still work it at the same production per day, but you would work less days.

Q. When is the—if there is one—when is the slow season in this business?

A. In this particular business it would be the end of October, November, the first half of December. It would be the end of March, April and first part of May, production-wise.

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[1368] Q. (By Mr. Thompson) Did you have a seasonal slack period at any time during 1957?

A. Yes, sir.

Q. When was it?

A. That would be to the end of October, November and first part of December.

Q. Was there any change at all made in the work force, or hours, or anything, during that period of seasonal slack?

A. The work force was retained intact, but the hours were cut down.

* * * * * * *

[1369] Q. Why didn't you lay off people in October and November, rather than cutting back on the hours?

A. Because we wanted to retain the potentiality of the 425 garments for the spring season.

Q. All right. Now why did you on January 31st, and thereabouts, lay off people instead of cutting hours?

A. Well, there were several reasons. Number 1, we did not have sufficient orders that had come in from our travelling men through the mail. Our projection of requirements showed that we only needed about 300 garments a day.

Number 2, we had just received, about the middle of January, our fiscal year-end statements from our accountants, which showed that we had lost practically all of the capital that we had in the business, and that we were operating the business on a capital of less than $1,000, and financially, [1370] we could not afford to operate a larger business than the cut-back to 300 a day.

Q. Now did your production requirement have any changes after January 31st?

A. No. Our production requirements remained the same.

Q. Have you made any changes in the capacity that your plant has been rigged for since then?

A. Personnel-wise, no. Except—

Q. What do you mean by the qualification there? What, otherwise—

A. We haven't added any more employees to give it a potential capacity of more than that.

Q. Does it have any greater potential as it is presently rigged than it had on January 31st?

A. Yes, sir.

Q. How do you account for that?

A. Again, the increase in experience of another seven months—six or seven months more experience of the operators has raised the capacity of the same amount of people from 300 a day to 350 a day.

* * * * * * *

[1374] Q. Now what effect, if any, did this letter have on the decision as to whether or not you would have a lay-off?

A. None.

Q. What effect, if any, did this letter have on the individuals who would be laid off during the lay-off?

A. None.

Q. Was this letter given any consideration in reaching the determination as to who would be laid off?

A. No.

Q. Was it considered at all during the course of the lay-off?

A. Yes.

Q. To what extent was it considered? How did you consider it? Explain that, please, sir.

A. Well, we had received this letter from the union, stating that a copy had gone to the National Labor Relations Boaird, and we considered it a threat against the firm demanding partial treatment for the people that were listed thereon.

When we received the letter, we knew that we were in quite a dilemma, because if we laid off anybody on this list, we would be subject to a Labor Board trial, like this. If we [1375] selected other individuals who were more capable, to be laid off, and retained some of these on the list that had originally been scheduled for lay-off, then those people would have a case against us.

Q. So what did you do?

A. We had very little choice but to go back to our original line of thought, and to determine to lay off on the basis of merit alone, and try to do the job with as much integrity as we could.

Q. Now how many of the people on General Counsel's Exhibit No. 5 were employed after January 31st? By that, Mr. Sharff, I mean immediately after January 31st.

A. Two.

Q. Who were they?

A. That would be Jeanette Beaver, and Mary Lou Partain.

Q. How many have been employed since that time?

A. Four. They are Violet Ewing, Nellie Ruth Hood, Evelyn Hudson, and Nellie Wood.

Q. Are any of the people on that list former employees of the Loganville Pants Company?

A. Yes; there are two.

Q. Who are they?

A. Lela Beaver—I am sorry; there is only one. Lela Beaver.

* * * * * * *

[1376] Q. (By Mr. Thompson) How come you to go asking people should their name be on the list?

A. Well, I didn't want to put up a letter that I thought was as important as this, with girls' names on it, without asking them whether or not they had authorized their signature.

Q. How come you to put it up in the first place?

A. Well, I thought under the circumstances that existed, that people themselves should be informed of everything that went on, and particularly about this demand by the Union for preferential treatment for these 12 people.

* * * * * * *

Q. And what did you do, if anything, upon learning this?

[1377] A. I don't understand the question.

Q. Did you take any action at all, once you learned that the Union was trying to organize your plant? Did you do anything—do any acts at all, at that time?

A. No, sir.

* * * * * * *

[1379] Q. (By Trial Examiner) Mr. Sharff, at the time you made the speech did you record it?

A. Yes, sir.

Q. Into what instrument was it recorded?

A. It was recorded into a Dictaphone.

Q. And is the—Is this the transcript of the words that you used?

A. Yes, sir.

[1380] Q. And is this the exact speech which you made?

A. Yes.

Q. And when was it transcribed into this form?

A. Oh, I would say several days afterward.

* * * * * * *

[1382] Q. This is transcription of the speech that you made at the Walton plant; is that correct?

A. Yes, sir.

Trial Examiner: Mr. Joy, are you objecting to this—

Mr. Thompson: Mr. Examiner, we offer this as the speech [1383] that was delivered at the Walton plant. I did not realize, at the time of offering it, that it did not pertain to both plants. I think Mr. Sharff has clarified that in that he did deliver two speeches, without reading from the transcript, and therefore I am sure there must be some difference in the words. We offer this as the speech which was delivered at the Walton plant, only.

Also, I think we should point out that the first three lines on page 1 are merely titles and were not a part of the speech.

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[1393] Q. (By Mr. Thompson) Mr. Sharff, I hand you back Respondents' Exhibit 3. I notice on there that some portion of that is underlined. Who did that?

A. I did.

Q. How come you to underline part of it?

A. I underlined it for the same reason that I wrote your office to ask them to prepare the information for us.

Q. What was that reason?

A. At this particular time there was quite a misunderstanding among the people in the plant as to whether or not they had to belong to the Union in order to work.

Q. Now how do you know that?

A. Well, quite a few of them came to me and asked me if they didn't join the union, would they lose their jobs, and evidently my first speech didn't convey the proper meaning to the people, and therefore I gave the second speech and posted this notice.

Q. What do you mean, it didn't convey the proper meaning?

A. Well, I tried to make clear in my first speech and second speech that the individual could or could not join the union; it was their own decision to make. And whichever decision that they did make, it would not affect their employment at Walton [1394] Manufacturing Company.

Q. Now how do you mean that people misunderstood that?

A. I had quite a few people come to me and ask me very directly, was I for the union? That they took my speech to mean that. And of course I reassured them that it made no difference to me which they did.

Q. Were you for the Union?

A. No, sir.

Trial Examiner: Did you tell them that?

The Witness: No.

* * * * * * *

[1404] Trial Examiner: He said they made the demand. As I [1405] understood it. Would you explain your answer, please?

The Witness: Yes, sir. Nat Greenberg, who was the head of the shipping clerks union of Amalgamated Workers —Clothing Workers—of the New York Joint Board of the Amalgamated Clothing Workers Union—

Trial Examiner: What did he do?

The Witness: —flew down to Atlanta and called me on the phone just to speak to me with regards to the organizing Walton Manufacturing Company.

Trial Examiner: Did he demand recognition?

The Witness: He demanded recognition that we—he demanded that we sign a contract with Amalgamated Clothing Workers Union, and said that if we didn't, that he would strike the place.

Q. (By Mr. Thompson) Do you know whether the Company ever received any petition from the National Labor Relations Board for an election, or anything like that?

A. No, sir.

Q. (By Trial Examiner) Did the Company file a petition?

A. No, sir.

Q. (By Mr. Thompson) Has there ever been any election at the Walton Manufacturing Company?

A. No, sir.

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[1407] A. There were places where the under-collar was supposed to be sewed to the coat, where the stitching was

missing, where there were holes left in the under-collar—in the junction of the seam, and quite a bit of thread was mismatched. In other words, she used the wrong color thread on the coat.

Q. Do you know about when she was discharged?

A. I think about January 10th.

Q. Did union activities have anything to do with her discharge?

A. No, sir.

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[1409] Q. At the time Grace McCart was discharged, did you know whether or not she belonged to the union?

A. No, sir.

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[1411] The Reporter: (Reading) "A. I told her that we couldn't give her a job now. That we had to wait and see what the union did."

A. Well, I meant that recently having been threatened with a strike, we certainly weren't going to make any promises to hire anyone with a pending strike.

Q. (By Mr. Thompson) Did you condition the employment of this woman on whether or not she belonged to the union or joined the union?

A. No, sir.

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Q. (By Mr. Thompson) Mr. Sharff, when you received General Counsel's Exhibit No. 5, what, exactly, were the questions that you asked the employees as you went around?

A. "Does your name belong on here?" "Did you authorize the [1412] use of your name?" "Do you realize

what the letter means; what the contents of the letter are?" Either O. K., or "All right," after that.

Q. Did you vary those questions any? Did you ask different questions of different people, or the same question of all the people?

A. The same question of all the people.

* * * * * * *

Q. (By Mr. Thompson) Did you ever tell any of these girls that this letter could cause them hardships, or lead to trouble, or anything along that line?

A. No, sir.

Q. Did you ever say anything to that effect to any of these people?

A. No.

Q. Did you ask any of them: Do you know what this means?

A. No.

Q. Do you know J. B. Stevens?

A. Yes, sir.

Q. Do you recall ever telling J. B. Stevens that you would close the plant if the Union came in?

[1413] A. No, sir.

Q. Did you ever tell J. B. Stevens anything to that effect

A. No.

Q. Do you recall whether Nellie Wood ever came back and was re-employed by the company?

A. Yes, sir.

Q. When, approximately, was she re-employed?

A. I believe it was in June of '58.

Q. Do you recall when she came back to re-apply, or if she came back to re-apply before that?

A. Yes, sir.

Q. What took place, if anything, at that time?

A. Well, Nellie came in and asked for her job back, and I told her that we didn't have anything at that time, but that possibly in a week's time that we would be able to place her; that something that I had in mind would open up, either on her old job, or else being that she was an experienced pants operator, in the pants line.

At that time she stated to me that she had signed a union card and she wanted to get out of the union. She was a complainant—she didn't say she was a complainant. She said she had signed charges against us, and she didn't want to sign any charges.

And I said, "Well, Mr. Joy is right here from the National Labor Relations Board investigating the case. If you would [1414] like to, let's both step next door and tell it to Mr. Joy."

Well, we went next door—

Q. Where was Mr. Joy?

A. Well, he was in my brother's office, which was adjacent to mine.

Q. What happened then?

A. And we went in there, and Nellie told Mr. Joy substantially: "I have no charges against Mr. Sharff or his company. That I signed the union card and I am sorry that I signed it. I want to get out of the whole thing."

And Mr. Joy made notes on the pad that he was working with, and I believe I asked at that time if there was

anything necessary further to do, and I believe—I am not quite sure—that Mr. Joy said "No."

Q. Now did you promise this woman if she would do that, that you would give her a job?

A. No, sir.

Q. Mr. Sharff, I will ask you to look at General Counsel's Exhibit 6-A. Mr. Sharff, prior to the trial of this case, which began about a week ago, had you ever seen that letter?

A. No, sir.

Q. Had you ever heard about that letter?

A. No.

Q. Did you, or anyone else connected with the management force of this company, so far as you know, have anything to do [1415] with that letter?

A. No.

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Q. Now as far as you know was there a rule at the Loganville Pants plant that employees were not to talk about union on the company property?

A. No, sir.

Q. Or were not to talk about union in the plant?

A. No, sir.

Q. So far as you know, was there any rule at the Loganville Pants plant concerning the talking about—the talking of unions?

[1416] A. No.

Q. Do you recall Lela Beaver?

A. Yes.

Q. Where did she work?

A. She worked in the Pants plant.

Q. Did you ever have any conversations with Lela Beaver concerning the Union?

A. Yes; I did.

Q. What was that conversation?

A. I believe after the day she was discharged, or a few days later, she came to see me and again in my office, and I believe there were just the two of us there. Lela said that she knew that she lost her job because of her union membership.

Q. What did you say?

A. I said No; it wasn't so. And she again insisted. And she said that she had signed a card and she knew that was the reason why she lost her job. I said No; it wasn't. And I think I added, "Well, how did you get mixed up with these people?"

Q. Was there anything else said?

A. No, sir.

Q. Did you ever tell Lela Beaver that you would go out the back door if the union came in?

A. No, sir.

Q. Did you ever say anything to that effect?

[1417] A. I did say that if the union were to come in and organize the plant, that I personally would not be there.

Q. Did you say that to Lela Beaver?

A. No. I said that in my speech.

Q. Did you ever make any statement like that in a conversation just between you and Lela Beaver?

A. No, sir.

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[1418] Q. Mr. Sharff, did you ever tell Evelyn Hudson that the letter which the Union had written, and which is General Counsel's Exhibit 5, would work a hardship on her?

A. No, sir.

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[1441] Q. Now tell us what took place at that time.

A. Lucille Yancey came in and said that she knew she was discharged because of her union membership activity, and I told her that it had nothing to do with it. In fact I didn't know that she was a union member.

Q. What else happened, if anything?

A. Well, she maintained that. That was about all that happened then.

Q. Did she ask her to put her back to work, or anything like [1442] that?

A. Yes, she did.

Q. What did you tell her?

A. I told her no. In fact—there was further conversation. Lucille Yancey said that she would resign from the union—No; first she said she would vote against the union, if it came to a vote, and I said it would make no difference.

Then she said that she would resign from the union, and I said that it would make no difference. And then she offered to work for us with regard to the union. She pointed out that she had worked to bring the plant to Loganville, and to raise the money to build the plant, and to recruit employees, and she worked for the plant then; she could work for it now. And of course I said no.

Q. Was there anything else said at that time?

A. No, sir.

Q. I believe you stated you had another conversation with Lucille Yancey. When did that take place?

A. I imagine that this was about either three or four days after that, or the next week end.

Q. Where did that take place?

A. In my office.

Q. Who was present?

A. No; it didn't take place during the week-end. It was during the week. I was there. My brother was there; Arthur. [1443] Mrs. Yancey was there, and Mr. Yancey was there.

Q. And what was said, if anything, at that time?

A. Mrs. Yancey again maintained that she was fired because of her union connections, and she showed me her discharge slip, which appeared in court, here. And I started to copy down the reasons for her discharge, I believe it was from Carwood.

At that time her husband got up and took the slip back, before I had a chance to really examine it.

About then my brother left the room and Lucille started to talk to me again with regards to her being discharged, and whether or not she could get her job back, and Mr. Yancey was seated in a chair opposite me. He crossed his legs and put his hat on his knee, reached into his pocket and took out a small pad and a pencil, and started to apparently make notes.

Q. Was anything else said about unions, or anything along the lines of unions?

A. No, sir.

Q. Was anything else said concerning Lucille Yancey's discharge?

A. No, sir.

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[1444] Q. And was Pearl Coker ever terminated from her employment?

A. Yes; she was.

Q. When did that take place?

A. I believe the 17th of January, 1958.

Q. Mr. Sharff, going back a minute to Lucille Yancey, I overlooked this question. Did you, at the time Lucille Yancey was discharged, know whether or not she belonged to the union?

A. No, sir.

Q. Did the fact she belonged to the union have anything to do with her discharge, or with the fact she was never rehired?

A. No, sir.

* * * * * * *

[1445] Q. Now how is it that you laid off or discharged Pearl Coker, rather than getting rid of Hester Lou McCart? Weren't they doing the same thing?

A. No—they were doing the same operation, but Hester made between $55 and $62 a week, and the work was available for both of them, and each one made as many as they could, and Pearl Coker, to my knowledge, never made production; which means that she earned anywhere between $35 and $38 a week, towards the end, even though she was being paid $40.

[1446] Q. Mr. Sharff, at the time these people were either discharged or laid off that are charging parties in this case, were there other people in the plant who had more make-up pay than they had?

A. Oh, yes.

Q. Now how do you explain eliminating people who had less make-up pay than other people?

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[1447] Q. (By Mr. Thompson) Mr. Sharff, what we want to know is what determined whether the make-up on this particular job was unsatisfactory, or whether it was satisfactory? In other words you said you had people in the plant who had more make-up than some of the people that you laid off. What I want to know is what determined whether the make-up of the people who were retained, for example, was satisfactory or unsatisfac- [1448] tory?

A. Well, no make-up is satisfactory.

Q. Suppose I use the word acceptable?

A. No make-up is acceptable. You try to eliminate it as much as you can. However, make-up in one portion of the plant, or one section, has nothing at all to do with the selection of a lay-off on anything similar to that in another section. Make-up only became a factor when it was necessary to eliminate one operator from a section of more than one operator, and quality being equal, then make-up became important.

Q. Why couldn't you compare the make-up of a girl in one section with the make-up of a girl in another section?

A. There is a difference of training period on various operations. Some operations you might have a training period of two or three weeks, and some may run into as long as a few months, and then there are others like lapel padding—not lapel padding, but bridle basting may run several years to really develop an operator.

I think that we confuse an issue, here, when we say that make-up as such is the difference between the money that a girl earns, and the money that you are forced to pay her by law. We consider production a quota at which a girl will make considerably more than $40.

* * * * * * *

[1449] Q. What were the factors which led to the determination that Bonnie Hamilton would be laid off?

A. It was purely a matter of reduction of the amount of work available for that section, and we had two employees [1450] there; Lucile Yancey number two, and Bonnie Hamilton; and there was only enough work left for one operator.

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Q. Why didn't you put Bonnie Hamilton on some other job, other than the one she was doing, if she was not an unsatisfactory employee?

A. Well, if we took Bonnie Hamilton and put her on another job, it would necessitate laying off the worker that was doing that job, and then we would have no assurance that Bonnie Hamilton would be able to do that job. There simply were not enough jobs available for the people that we had.

Q. Were there any other jobs there that required the same skill, or which Bonnie Hamilton's experience would enable her to do?

A. No, sir.

Q. Then if you had put her on another job, what if anything would have been required in order for her to do the job?

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[1451] A. Regardless of the job that Bonnie Hamilton would be put on, there would be a question of re-training the operator.

Q. (By Mr. Thompson) Was there any question of re-training, or training of the operators that you had on the other jobs?

A. No, sir.

Q. Are you familiar with an employee by the name of Pauline McGee?

A. Yes; I am.

[1452] Q. Was she ever laid off or discharged?

A. She was laid off January 31st.

Q. What were the circumstances of her lay-off?

A. There, again, it was strictly a cut-back of production. We had two operators, and one job.

Q. Who was the other operator?

A. Charlotte Finley.

Q. Why did you lay off McGee, instead of Finley?

A. Well, Charlotte Finley was a much neater operator, and did better work.

Q. Why didn't you move McGee over onto another job?

A. Again it would have been a question of re-training

Q. Do you recall an employee by the name of Violet Ewing?

A. Yes; I do.

Q. What job did she do?

A. She prepared the welts. She made the welts.

Q. Was she ever terminated from the company?

A. Yes; she was.

Q. When was she terminated?

A. January 31st.

Q. What were the factors which led to her termination?

A. It was strictly a cut-back in production. We had enough work for one operator. We had two operators. They did dissimilar work for a portion of their job, and they did share a mechanical—a very mechanical job of sewing facings.

[1453] Q. Who was the other operator?

A. That was Margaret Britt. Margaret Britt's job was a much more complicated job, and required a much better control over the machine than we felt Violet Ewing had. Because she was trained for a straight seam job, rather than the skills necessary to make a flap.

Q. Mr. Sharff, do you recall an employee by the name of Ida Harper?

A. Yes; I do.

Q. Was she ever terminated?

A. Yes; she was.

Q. When?

A. January 31st.

Q. Was she discharged, or laid off?

A. She was laid off.

Q. What were the factors which led to the decision to lay her off?

A. Again we had a question of not enough jobs to go around. Ida Harper was a completely unsatisfactory operator, both in quality, conduct and quantity.

Q. What do you mean by conduct? What was the conduct that was unacceptable?

A. She would laugh and fool around during working hours at the machine. She wouldn't put in a good day's work. She would put in a good hour's work, anid then fool around for a [1454] couple of hours.

Q. Was that occasioned by the fact that she didn't have any work to do?

A. No, sir.

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[1455] —had taken over Lucille Yancey's work, and she was being trained for that job and she was coming along fairly well. With the cut-back, we found ourselves with the two operators adjacent to her who handled the work right after she did, Odelle Barnes and Imogene Meeks, who were two top-notch inside breast pocket girls; excellent operators, and doing a very complicated job; as opposed to one that Elizabeth Johnson was doing, which was purely mechanical. We would only have work enough, half of Elizabeth Johnson, and we would have had two-thirds of a job for Imogene Meeks and two-thirds of a job for Odelle Barnes. Sc rather than have a situation like that exist, we retained the services of the two better operators, Meeks and Barnes, who easily absorbed the work that Johnson was doing.

Q. Do you recall an employee by the name of Nellie Hood?

A. I do.

Q. What did Nellie Hood do?

A. Nellie was a floor worker in Jerry Carter's section.

Q. Was she ever terminated?

A. She was terminated; she was laid off on January 31st.

Q. What were the factors which led to the decision to lay her off?

A. With the cut-back in production in Jerry's section, we found ourselves with a situation that couldn't easily be rectified by laying off a-tenth of an operator here, or a-tenth [1456] of an operator there. It developed that certain girls had an hour here, or a half hour there, during the day, and could, with Jerry's help, absorb Nellie Hood's work.

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She—Johnnie Starrett was the regular operator for edge-taping and Lavrene Bowen was the regular operator for edge-basting, and Nellie helped each one of them about half and half. We cut our production approximately one-third, and where we had three operators on identical—within this little section, we could only use two. So our choice went to our regular operators who did the work cleaner, and with a little better production, although the production was not a factor [1457] in the decision.

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[1461] Q. (By Mr. Thompson) What part did the fact that these people; Hamilton, McGee, Ewing, Hairper, Johnson, Hood, Wood, Hudson and Beaver; belonging to the union, have to do with their lay-off?

A. None at all.

Q. Did Pearl Coker's union membership have anything to do with her lay-off?

A. No.

Q. Did Grace McCart's union membership have anything to do with her lay-off?

A. No.

Q. Did you know, at the time Grace McCart was discharged, that she was a union member?

A. No; I did not.

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[1463] Q. (By Mr. Thompson) Was there anybody on this list of people you hired, shown on Respondents' Exhibit 9, who was hired after January 31st to a job that anyone who was laid off on January 31st could have performed?

A. No, sir.

• • • • • • •

Q. The question is this: Is there anyone on this list who was hired to do a job which had previously been done by somebody who was laid off on January 31st with the exception of the two or three people who happened to be on this list who [1464] were lay-offs?

A. With only the exception of two girls on here that are trying out for a sleeve girl; what Evelyn Hudson had been called back to do and was discharged by failure on that job.

Q. Who were they; those two?

A. Margie Edwards and Jessie Pearl Reed.

Trial Examiner: Who had originally done that sleeve job?

The Witness: That was done by, I believe, Mary Barnes and I believe Evelyn Hudson also helped out in her spare time.

Q. (By Mr. Thompson) Mr. Sharff, did you ever make a statement at a supervisor's meeting that you would close the plant if the union came in?

A. No, sir.

Q. What business are you now engaged in?

A. I am engaged in a small, retail business.

Q. Are you also still down at the Walton Manufacturing Company?

A. Yes, sir.

Mr. Thompson: Mr. Examiner, if we could take about a two-minute break, I think I may be about through with this witness. I would like to check my notes briefly.

Trial Examiner: We will have a five-minute break. Do not discuss your testimony.

(Recess had.)

Q. (By Trial Examiner) Mr. Sharff, were the speeches that you made at the Loganville Pants Company substantially the [1465] same speech as those which you made at the Walton Manufacturing Company which are set forth in the transcripts marked Respondents' Exhibits 89 and 90, respectively?

A. Yes, sir.

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Q. (By Mr. Thompson) Mr. Sharff, I will ask you to refer to Charging Party's Exhibit No. 2, and I call your attention to the paragraph concerning Pearl Coker.

A. Yes, sir.

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[1466] Q. (By Mr. Thompson) Will you state, please, Mr. Sharff, what was meant by the term "insufficient work," there?

A. Insufficient work refers directly to Pearl Coker, in the fact that she did an insufficient amount of work.

Q. Mr. Sharff, did you ever tell Lucille Yancey the first, who is an alleged discriminatee here, that if the union didn't get in, she could have her job back?

A. No, sir.

Q. Did you ever tell her anything like that?

A. No, sir.

Q. Anything to that effect?

A. No, sir.

Q. Has she ever been put back to work?

A. No, sir.

* * * * * * *

[1468] Q. (By Mr. Joy) Mr. Sharff, with respect to Pearl Coker, [1469] you refer to Louise Sammons being on leave of absence. Is it not true Louise Sammons had quit a month or two before?

A. No; she did not quit. When Louise Sammons left, I remember clearly, because Louise Sammons was a good operator, and I usually keep my eye on good operators. Louise had told me several days before that there wasn't sufficient work for her to work fairly full time. She was going to have to go somewhere else until such time as there was sufficient work for her to work at least four days a week.

Q. Was that so-called leave of absence for any particular length of time?

A. Until such time as we had sufficient work, which should have been showing up in January for the spring season.

Q. Is Louise Sammons listed on Respondents' Exhibit 9?

* * * * * * *

[1485] Q. That's drop of approximately how many?

A. That's a drop of 11. I am sorry; 14.

Q. Did you plan for this drop that far in advance?

A. This was a gradual elimination of operators due to the increased productivity of remaining operators.

* * * * * * *

[1487] Trial Examiner: None of the girls had signed that letter, had they, Mr. Sharff?

The Witness: No; there were no signatures on there. What she said to me was that she had not signed that letter, but she authorized the use of her signature, but she had never seen the letter before. The rest of the girls had seen the letter and acknowledged the contents of the letter.

* * * * * * *

[1489] Q. When you made your speech of December 3rd to the employees of Walton Manufacturing Company, you made known the facts that loans were available to the employees; isn't that a fact?

A. No, sir.

Q. I show you Respondents' Exhibit 89, and ask you to read it.

A. When you say "make known," you mean I announced that they could borrow money?

Q. Yes.

A. No. They knew that.

Q. When did you tell them about that?

A. The first loan that was lent was back in July, 1957.

Q. Did you get up and inform the employees of the fact?

A. No.

Q. How do you know the employees knew about it?

A. Because we had a substantial number of people; a small organization, borrowing money.

* * * * * * *

[1492] Q. (By Mr. Sheinkman) Am I to understand you correctly that the reason you made the second speech December 10th was that some people came to you and tried to find out whether you were for the union?

A. No, sir.

Q. What is your testimony in respect to that; on the second speech?

A. My testimony is that there were people that were uninformed as to whether or not they had to join the union in order [1493] to—had to sign the union card in order to continue to work for Walton Manufacturing Company, because they believed they had to.

Q. What did you tell them when they came to your office and asked you this question?

A. "I will let you know."

Q. About how many came to your office?

A. Half a dozen.

* * * * * * *

[1495] Q. Am I to understand your testimony that the first consideration of the company at the time in December—January 31 lay-off, was quality? That was the first factor considered?

A. Quality?

Q. Yes.

A. That was the first item.

Q. And the second factor was production; is that correct?

A. Yes.

Q. And the third factor was seniority; is that correct? [1496] A. No, sir.

Q. What was the third factor?

A. I think the third factor would be a tie between versatility and seniority.

Q. And these are the order in which you considered these matters; is that correct?

A. It depended upon the case.

Q. You varied the order, depending on each case; is that right?

A. We varied it, depending on the operation itself. Because some operations called for production, some called for quality.

Q. So quality, then, was not the first consideration?

A. I just said that we used the four things to judge a person by.

Q. Interchangeably.

A. Dependent upon the job.

Q. Am I to understand your answer, based on 20 years experience in the clothing industry, that a person who has never operated a high-powered sewing machine, can be easier trained to do a sewing job than a person who has operated such a machine?

A. In a great many cases; yes.

* * * * * * *

[1498] Q. (By Mr. Sheinkman) Am I to understand that you asked each employee with respect to General Counsel's Exhibit 5, that, "Do you know what this means"? Is that what you said?

A. No, sir.

Q. Did you say, "Do you realize what this means"?

A. No, sir.

Q. What did you say?

A. I said, "Do you know what this letter means?" "Do you know what this letter contains?"

Q. You added the word "contains"?

A. To the best of my recollection my words conveyed the meaning: Do you know what is contained within this letter?

Q. Those were your exact words as you recollect them.

A. No, sir.

Q. What are your exact words as you best recollect them?

A. I don't remember my exact words, sir.

Q. You could have said, "Do you realize what this means?"

A. No, sir.

Q. You could not have said it?

A. No, sir.

* * * * * * *

[1502] Q. Now am I to understand correctly that Lucille Yancey had a conversation with you in which she said she would vote against the union if you gave her her job back; is that right?

A. Yes, sir.

Q. What did you say to that?

A. "No."

Q. And after she said that, she said she would resign from the union, and what did you say to that?

A. "It wouldn't do any good."

Q. She made an offer to work for the company to get informa- [1503] tion about the union; is that correct?

A. Yes, sir.

Q. Is it your testimony at no time she ever gave you information about the union?

A. Other than that one conversation there I have related.

* * * * * * *

A. I testified that a good operator, with plenty of experience, would make between 60 and 65 a week.

Q. At the time that Pearl Coker was discharged, what were the other employees in her section earning?

A. The only other regular employee in her section was Hester McCart, and she was between 55 and 62, 63 dollars a week.

* * * * * * *

[1513] *Re-Direct Examination.*

Q. (By Mr. Thompson) Mr. Sharff, after you had these informal discussions with the various supervisors concerning the violence, and the union, did you ever have any reports come back to you that they were doing other than you had suggested to them?

A. No, sir.

Q. You were asked a few minutes ago about whether you had asked Violet Ewing to change her testimony.

What were the circumstances that you discussed with Violet Ewing, after she had testified here?

A. Well, the circumstances were that after she had testified, that her sister-in-law had said something—I forget what it is now. I went back to Myrtle Ewing and asked her did she say that, and she said "No," and then I asked Violet Ewing to come over—Violet Ewing said she was sorry she said that, so I asked her to come over here, and when she came over here I asked her was she sure whether she had said that or not, and [1514] she said, "Yes."

I said, "The reason I asked you to come over here is because I didn't want anything to come between you and your sister-in-law." "If that's what you said, now I don't wish you to change your testimony. I only want you to tell the truth."

And she said, "That's what I remember of Myrtle saying." That ended the conversation. I told her to go back to work.

* * * * * * *

Q. And did you on that occasion, as testified to by a number of witnesses here, take down the license numbers of the union organizers?

A. Yes, sir.

Q. What was your purpose in doing that?

A. Well, this was about the time that the organizers had first come into town, and J. B. Stevens told me that he saw [1515] some organizers—strangers up at Breeze Inn. So partially out of curiosity I went up to the Breeze Inn with "Murph"—

Q. I don't care why you went up there. What was your purpose in taking down the license numbers?

A. Well, having had a taste of threat of violence in New York, and also a threat just before I closed up my business in New York, I was very seriously concerned about not having a repetition of that down here.

Q. And in what way would the taking down of license numbers avoid violence?

* * * * * * *

[1516] Q. And what if anything did you do in connection with that to prevent, if you could, the union from coming into the plant?

A. Well, I would say that we took two steps; one negative and one positive. The negative step would be the speech. The positive step would be to speed up the training and the earnings of the girls in our shop.

[1517] It's my opinion, and that of my firm, that this locality here, if we could pay the girls, if we could make the girls earn substantially more than the minimum, and give them every benefit that they would get under a union, that we would not have a union shop.

We started to do that with hospitalization, insurance, vacation, and holiday pay. Our people today are making about 20% more than the surrounding plants. That's our defense against a union.

* * * * * * *

Q. And the letter which was posted on the bulletin board, General Counsel's Exhibit 9, was that also part of that plan?

A. No, sir. That was for clarification.

Q. Now I think in your direct testimony you characterized General Counsel's Exhibit 5 in evidence as a

demand for preferential treatment on behalf of certain union employees. Is that correct?

A. Yes, sir.

Q. And is that the way you characterized it?

A. I felt that this was a demand by the union not to dare fire these people under the threat of a National Labor Board case, particularly inasmuch as they indicated that a copy had [1518] been sent to the National Labor Board.

Q. Was there anything in the letter which demanded that you not fire any employees?

A. I—At that time I didn't know what Section 8 (a) (3) was, but it says they are protected to their rights to join and assist the union, and this to me meant that you couldn't fire these people unless you had much more reason to fire them than an ordinary employee in the plant, because it implied the threat that if you did, that you would be hauled before the National Labor Board.

Q. And therefore you considered it a demand for preferential treatment

A. Yes, sir.

Q. Merely by the fact that it was called to your attention that these persons were active in the union campaign?

A. Yes, sir. No, no; not that, but by reason that it indicated that a copy have been sent to the National Labor Board, and I believe, after receiving this letter, that I did speak to our law firm, and it was pointed out to us that if we did fire these people, we would be running a risk of a National Labor Board case.

Q. Now at the time this letter was received by you, no announcement had been made of any lay-off, had there?

A. No.

Q. And these employees, as far as they knew, didn't know of [1519] any impending lay-off, did they?

* * * * * * *

[1520] A. At that time we didn't anticipate a reduction of force, because we anticipated a good spring season. Because that was back—may I add something to that, sir?

Q. Yes.

A. Well, that speeding up the operator: It was not a question of taking a girl who was making $35 a week and having to pay her $5 a week. It was much more important to take the girl who was making $42 and push her production up to the point where she was making $48 or $50, because we still wanted operators to make between $45 and $60 a week. We did then, and we still do.

Q. Now did you, after this knowledge of union organization, undertake to instruct your supervisors as to their conduct in the plant?

A. Only in an informal manner.

Q. Did you instruct them formally or informally?

A. Informally.

[1521] Q. What instructions did you give them?

A. I told them that I felt that there might be some type of violence. I didn't want them to have any part of it, or do anything to instigate it. And as far as talking for or against the union, I didn't even want them to talk about the union. I was interested in production and plant quality, and that was their job.

1 Before the National Labor Relations Board

TENTH REGION

Case Nos. 10-CA-3127, 10-CA-3201, 10-CA-3219

IN THE MATTER OF WALTON MANUFACTURING COMPANY AND AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL-CIO

Case Nos. 10-CA-3202, 10-CA-3218

LOGANVILLE PANTS COMPANY AND WALTON MANUFACTURING COMPANY AND AMALGAMATED CLOTHING WORKERS OF AMERICA AFL-CIO.

Excerpts of transcript of testimony

COURTROOM, SECOND FLOOR,
WALTON COUNTY COURTHOUSE,
MONROE, GEORGIA,
Wednesday, October 15, 1958.

Pursuant to notice, the above-entitled matter came on for hearing at 10:00 o'clock, a.m.

Before: Samuel Ross, Trial Examiner.

Appearances: Arthur C. Joy, Esq., Peachtree-Seventh Building, Atlanta, Georgia; appearing on behalf of General Counsel.

Jacob Sheinkman, Esq., 15 Union Square, New York City, New York; appearing on behalf of Amalgamated Clothing Workers of America, AFL-CIO, the Charging Party.

Robert T. Thompson, Esq., 615 Rhodes-Haverty Building, Atlanta, Georgia; appearing on behalf of the Respondents.

* * * * *

145 Mrs. FRANCES ELIZABETH POWELL, a witness called by and on behalf of the General Counsel, being first duly sworn, was examined and testified as follows:

* * * * *

147 DIRECT EXAMINATION

TRIAL EXAMINER. I didn't understand you. When did you start for the company—to work for the company?

The WITNESS. It was around July the 1st, I think—July the 1st.

TRIAL EXAMINER. July 1st; and what is this incident that happened a day or a day and half before Lucille Yancey was laid off that you were referring to a minute ago?

Mr. JOY. The question was: when was an operation change made—in her operations.

TRIAL EXAMINER. A change was made in your operations a day or a day and a half before Lucille Yancey was laid off?

The WITNESS. Yes, sir.

TRIAL EXAMINER. All right.

By Mr. JOY:

Q. What changes were made?

A. I was put back at the back with Grace Higgins as my supervisor and I made the linings and put on the facings of the inside pockets.

Q. And how long did you stay on that?

A. About a day and a half.

Q. Then what did you do?

A. I was put on Lucille Yancey's job.

Q. What was that?

A. That was sewing darts in the linings and sewing
148 the facings on to the linings.

TRIAL EXAMINER. What was that first word you said?

The WITNESS. Darts.

TRIAL EXAMINER. Darts?

The WITNESS. Sewing darts in the linings and then sewing the facings to the linings.

TRIAL EXAMINER. All right.

* * * * *

358 VIOLET EWING, a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

359 TRIAL EXAMINER. State your full name and address for the reporter.

The WITNESS. My name is Violet Ewing. And I live in Loganville, Route 2.

* * * * *

360 Q. Did you do any other operations?

A. Prior to that; yes.

Q. What were they?

A. Well, I worked, trimmed collars, marked collars, and basted them, cut pockets and sewed pocket facings.

* * * * *

369 Q. Did you ever go back to work for Walton Manufacturing Company?

A. Yes.

Q. When?

A. October 7, 1958.

Q. Who did you talk to when you went back there?

A. "Murph."

Q. Anyone else present?

A. Grace Higgins.

Q. What was said?

A. Well, Mr. "Murph" told me that they had an opening and they were going to put me back to work. He said I would be a utility girl.

Q. Did he make any comments about your work?

A. No. The only thing, he told Grace that I was a good operator, and I wouldn't give her any trouble.

* * * * *

385 GRACE MCCART, a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

397 Q. And were you put back to work at that time?

A. I went back to work March the 3rd.

Q. Have you been working there since?

A. Yes, sir.

398 Q. Have you been doing the same type of work that you were doing before?

A. Yes, sir.

Q. Operating the same type of machine?

A. Yes, sir.

Q. Have you done the work the same as you did before?

A. Yes, sir.

Q. Have you used the same color of thread that you did before?

A. Yes, sir.

* * * * *

403 BONNIE HAMILTON, a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

* * * * *

427 Redirect examination by Mr. JOY:

Q. Mrs. Hamilton, Mr. Thompson was asking you about the meetings you attended. Did you attend any at any place other than Rosebud Community House?

A. Yes; I did.

Q. Where were they?

A. Well, I attended one at Lucy Brook's home. I attended one at Violet Ewing's, and there were also one at my house.

Q. Now can you place the dates of those?

A. No; I can't.

Q. Were they before or after the meetings held at Rosebud?

A. They were after.

Q. After the first one, or after the last one?

A. After the last one, I believe.

Q. Referring to the three held in the three homes, which one was held first?

A. Lucy Brooks.

Q. And which one was second?

A. Violet Ewing's.

Q. And yours, of course, was the third.

A. Yes.

Q. How long after the Rosebud meeting was the one held at Lucy Brook's? Approximately how long?

A. Oh, I would say three or four weeks.

428 Q. And how long after that was the one at Violet Ewing's?

A. Approximately three weeks.

Q. And the one at your house?

A. About the same time, I think.

Q. After the one at Violet Ewing's, you mean?

A. Yes.

Q. Were those held before or after you were laid off on January 31st?

A. They were held before, to the best of my knowledge.

* * * * *

519 NELLIE HOOD, a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

TRIAL EXAMINER. Give your name and address to the reporter.

The WITNESS. My name is Nellie Ruth Hood. I live at Jersey, Georgia, Box 62.

TRIAL EXAMINER. Off the record.

(Discussion off the record.)

TRIAL EXAMINER. Proceed.

By Mr. JOY:

Q. When did you start working for Walton Manufacturing Company?

A. July 1.

TRIAL EXAMINER. July 3?

The WITNESS. 1st.

Q. 1957?

A. 1957.

Q. And what was your job when you first started?

A. I was marking for the welt pockets, patch pockets, matching the pockets with the front of the coat and carrying bundles to the girls.

Q. And when you say marking pockets and so on, what does that mean?

A. It was marking the welt pockets on the coat and

520 patch pockets.

Q. You mean marking on the coat the place where the pocket was to be sewed?

A. Yes, sir.

Q. And when you say that you were matching things, what does that mean?

A. I matched the pockets to the—the pockets to be sewn on the coat to the front of the coat.

Q. That's the proper material. Is that correct?

A. (Nods head affirmatively.)

Q. How long did you work on that?

A. I would say around three or four months.

Q. You may have told us this before, but what, if anything, did you do in addition to marking the pockets, matching the pockets?

A. Carrying the bundles.

Q. Carrying the bundles. All right. What did you do after three or four months. What were you changed to?

A. I was matching the backs with the fronts of the coats.

Q. And did you continue to carry bundles?

A. Yes.

* * * * *

539 RUTH BROOKS, a witness called by and on behalf of General Counsel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

* * * * *

545 Q. Who did the pocket repair work?

A. I did.

Q. Did you do only your own work; repairs on your
546 own work, or did you do repair for work done by others?

A. I did all repair work on back pockets.

* * * * *

547 Q. Who was your forelady at the pants plant?

A. Edna Atha.

Q. And did you have any discussion with her about the make-up?

A. Yes. Some time in January when our checks were given us there was a bunch of us weren't—we were around my machine, and we were discussing having so much make-up, and she came up and wanted to know what the trouble was, and we told her we couldn't understand why we had so much make-up when we had nothing to do and were switched from one thing to another, and just about that time the bell rang for lunch. So after lunch she came back to my machine and she said, "Ruth, I have told Mr. Hughley what you said about your make-up, and he said as long as he didn't say anything to you, for you not to worry; that he knew that work was short."

Q. Can you place the date of that?

A. It was on—around the 9th or the 10th of January.

* * * * *

1012 GRACE HIGGINS, a witness called by and on behalf of Respondents, being first duly sworn, was examined and testified as follows:

* * * * *

1046 CROSS-EXAMINATION

1058 Q. In the case of Evelyn Hudson, did she not perform more than one operation?

A. Yes.

Q. How about Grace Barnes; at the time of the lay-off was she performing more than one operation?

A. No.

Q. How about Bonnie Thompson? Was she performing more than one operation?

1059 A. I do not know about Bonnie Thompson—excuse me. No; she was only doing one operation.

* * * * *

1145 I. S. PROSTERMAN recalled as a witness on behalf of the Respondents, having been previously duly sworn, was examined and testified further as follows:

* * * * *

1146 DIRECT EXAMINATION

* * * * *

1180 By Mr. THOMPSON:

Q. Now what were the factors which led to Pearl Coker's discharge?

A. Pearl Coker had showed unsatisfactory progress, and in view of the fact that Hester Lou McCart and the operator formerly on the job who had left us——

Q. Who was that?

A. That was Louise Sammons. In view of the fact that these two operators showed a much greater production, and better quality.

Q. Was Louise Sammons working there at the time Pearl Coker left?

A. At that time; no.

By TRIAL EXAMINER:

Q. Did you fire or lay off Pearl Coker?

A. Pearl Coker was discharged.

Q. When did you discharge her?

1181 A. January 17th.

TRIAL EXAMINER. All right. Mr. Thompson.

By Mr. THOMPSON:

Q. Who fired Pearl Coker?

A. I did.

Q. Are you familiar with Pearl Coker's record on make-up pay?

A. Yes, sir; I am.

Q. Are you familiar with Hester Lou McCart's record on make-up?

A. Yes, sir; I am.

Q. Was there any comparison between the make-up of those two people involving the lay-off or the discharge of Pearl Coker?

A. Well, the comparison was that Hester Lou McCart had no make-up. In fact she had a very good earning record; production record; whereas Pearl Coker was constantly on make-up.

By TRIAL EXAMINER:

Q. Was make-up a factor in discharging Pearl Coker?

A. Yes, sir; it was.

* * * * *

1220 Q. Do you recall an employee by the name of Nellie Wood?

A. Yes; I do.

Q. What did Nellie Wood do?

A. Nellie Wood worked principally on two operations. She did part of an operation known as edge basteing, and part of her day was taken up by an operation known as edge taping, on which there were two full time employees.

Q. Now were these other two employees doing the same thing that Nellie Wood was doing?

A. Yes.

Q. Were they both doing both edge taping and edge basteing?

A. No. Johnny Starrett was doing edge taping. Laverne Bowen was doing edge basteing. Nellie Wood was assisting on

both jobs. She did part of her day on one job and part of her day on the other.

By Trial Examiner:

Q. She was more versatile than the other two, eh?

By Mr. Thompson:

Q. Subsequent to the—Was Nellie Wood ever discharged or laid off?

A. Nellie Wood was laid off on January 31, 1958.

Q. Subsequent to that time, who performed the work that she was doing prior to that time? After she was laid off, who did the work that she was doing before that time?

1221 A. No one.

Q. Who did the edge taping after that time?

A. Johnnie Starrett.

Q. And who did the edge basteing?

A. Laverne Bowen.

Q. And who did the third job of helping both of them?

A. These operators didn't require any help. For a period of approximately a month. At which time we increased the operation of Laverne Bowen to include the bottom hem basteing and at that time we gave her assistance with the operator which immediately followed Laverne Bowen's operation. This operator's name was Geraldine Lacey.

Q. What were the factors which led to the decision to lay off Nellie Wood?

A. With Nellie Wood it was simply a question of cutting back, because we didn't need Nellie Wood in that particular operation. We didn't need her production. And since the other two girls had been on the job a longer period of time, we had no reason to retain her.

Q. Since the lay off on January 31st, who if anyone has done the work which Nellie Wood was doing, and no other work?

A. No one.

Q. In reaching your decision to lay off Nellie Wood, as opposed to other people, did you take into consideration any other employees other than Starrett and Bowen?

1222 A. No, sir.

* * * * *

* * * * *

1249 By Mr. JOY:

Q. Now after Ida Harper was terminated, laid off, you said that Geneva Harris took over her operation for a while, and then Charlotte Finley took over part of the operation; is that right? Did Charlotte Finley have any experience using the Lewis blind stitch machine?

A. Not very much.

Q. Did she have any?

A. Prior to her doing that work, no. No experience at all.

* * * * *

1265 I. S. PROSTERMAN resumed the stand, was examined and testified further as follows:

CROSS-EXAMINATION (CONTINUED)

* * * * *

1300 Q. Annie Brooks leave?

1301 A. No; she was discharged.

Q. She was discharged. What was the reason for her discharge?

A. Poor quality, and lack of production.

Q. Was this a thing that she had difficulty with before the time she was discharged?

A. That who had difficulty with?

Q. Annie Brooks.

A. Well, we have never mentioned Annie Brooks before.

TRIAL EXAMINER. The question is how long had you had trouble with Annie's quality and production?

The WITNESS. Well, fairly constant.

* * * * *

1359 MORRIS SHARFF, a witness called by and on behalf of the Respondents, being first duly sworn, was examined and testified as follows:

TRIAL EXAMINER. Give your full name and address to the reporter.

The WITNESS. Morris Sharff; 3322 Roxboro Road, NE., Atlanta, Georgia.

* * * * *

1370 By Mr. THOMPSON:

Q. Now going back to the January 31st lay-off. When did you first start getting wind of this reduction in your production requirements?

A. Well, we do that right around Thanksgiving; the first of December because the men had been out on the road
1371 travelling for about six weeks, and the number of orders that were coming in were substantially lower than past experience, and you could make a projection at that time as to what you would normally expect your season to end up, and as you go along, you keep making your projections, and the deeper you get into the season, the more accurate your projections are.

Q. Was there anything done with respect to the work force when you began to get your reports and make your projections?

A. No. We still kept the work force intact, hoping that our original projection would prove wrong.

Q. Now did you give any instructions to anybody with respect to the possibility of a lay-off?

A. Yes. I spoke it over very seriously with "Murph" and told him of what I thought the position would be after the first of the year, and I asked him to think about it, and see what he thought would be the proper thing to do to set up the shop, what steps to take in order to reduce the production of the shop to 300 garments a day.

Q. What did he do, if anything, after that, in connection with this?

A. Well, we conferred about it until about the 10th or the 15th of December, and I went to New York for about 10 days, and when I came back there was an outline prepared—not really a report, but more or less a few notes——

Q. Have you seen General Counsel's Exhibit 19?

1372 A. Yes, sir.

Q. Is that the notes that you are talking about?

A. Yes, sir.

Q. When did you see that?

A. "Murph" handed that to me right after I came back from New York, which was three or four days before New Year's Day.

Q. What month was that?

A. December 1957.

TRIAL EXAMINER. That would be about December 26th or 27th?

The WITNESS. About the 28th.

By Mr. THOMPSON:

Q. When was the decision made to go through with the lay-off?

A. The decision—what actually happened there was we waited several weeks in January before finally putting it into effect, even in our own minds, hoping again that the salesmen would send in orders the first part of January.

TRIAL EXAMINER. Now Mr. Sharff, these questions that Mr. Thompson is asking you are capable of very short answers, and when you are asked a question that asks for a date, give the date. Mr. Thompson is very competent counsel. He will ask all the questions to bring out the other testimony.

The WITNESS. I am sorry.

A. About the 15th of January.

TRIAL EXAMINER. The decision to lay off was made about the 15th of January?

1468 Cross-examination by Mr. JOY:

* * * * *

1485 Q. Prior to the receipt of the letter sent by the union, marked in evidence as General Counsel's exhibit 5, did you inform the employees there would be a general lay-off in the plant?

A. No, sir.

Q. Did you ever discuss any of the individuals who
1486 were laid off the 31st of January, 1958, with the supervisors, in the month of December?

A. No, sir.

Q. Did you inform any of the supervisors there would be a lay-off in the month of December?

A. No, sir.

Q. When was the first time you informed your supervisors of this fact?

A. We informed the supervisors about the 10th of January of the possibility of the lay-off.

Q. Of a possibility.

A. Yes.

TRIAL EXAMINER. Do you include Mr. Prosterman in the term "supervisor"?

The WITNESS. No, sir.

By Mr. SHEINKMAN:

Q. Am I to understand you correctly with respect to General Counsel's Exhibit 5 you asked each of the girls individually whether or not they had authorized the signing of the letter; is that right?

A. Not all of them.

Q. Did you ask Jeanette Beaver that question?

A. Yes.

Q. Didn't you deny it—didn't she deny it?

A. She said she did not sign that letter.

Q. Didn't you put a dash next to her name instead of a check?

1487 A. Yes, sir.

Q. She was one of the girls who was not laid off; is that right?

A. Yes.

TRIAL EXAMINER. None of the girls had signed that letter, had they, Mr. Sharff?

The WITNESS. No; there were no signatures on there. What she said to me was that she had not signed that letter, but she authorized the use of her signature, but she had never seen the letter before. The rest of the girls had seen the letter and acknowledged the contents of the letter.

TRIAL EXAMINER. Continue.

By Mr. SHEINKMAN:

Q. But there was a check mark made to the other names, other than Jeanette Beaver's name; is that right? You put a dash next to hers.

A. There were three that had no mark at all.

Q. Was there a dash next to Jeanette Beaver's name?

A. Yes.

Q. You put that dash there.

A. Yes.

Q. And then you posted the letter on the bulletin board.

A. Yes.

* * * * *

1501 By Mr. SHEINKMAN:

Q. You said that Frances Johnson's work was satisfactory; is that right?

A. Essentially; yes.

Q. You never warned her about her bad work.

A. As far as I was concerned, she didn't do a lot of bad work.

* * * * *

1513 REDIRECT EXAMINATION

* * * * *

1514 By TRIAL EXAMINER:

Q. Mr. Sharff, I think there was testimony here to the effect that a person by the name of Stevens, who was employed by you in a maintenance capacity—is that correct?

A. Yes, sir.

Q. Do you recall an incident at the Breeze Inn?

A. Yes, sir.

Q. And did you on that occasion, as testified to by number of witnesses here, take down the license numbers of the union organizers?

A. Yes, sir.

Q. What was your purpose in doing that?

A. Well, this was about the time that the organizers had first come into town, and J. B. Stevens told me that he
1515 saw some organizers—strangers up at Breeze Inn. So partially out of curiosity I went up to the Breeze Inn with "Murph"——

Q. I don't care why you went up there. What was your purpose in taking down the license numbers?

A. Well, having had a taste of threat of violence in New York, and also a threat just before I closed up my business in New York, I was very seriously concerned about not having a repetition of that down here.

Q. And in what way would the taking down of license numbers avoid violence?

A. Well, I wanted to find out who the people were.

Q. Now then, do you own a 1956 green Plymouth?

A. Yes, sir. I did at the time.

Q. And did you turn that car over to Mr. Stevens that afternoon?

A. Well, the car was there for the disposal of anyone that wanted to use it. He ran a lot of errands.

* * * * *

1529 *Charging Party—Exhibit No. 2*

WALTON MANUFACTURING CO.

FINE BOYS, STUDENTS AND MEN'S CLOTHING

Phone: 3341

LOGANVILLE, GEORGIA,
April 15, 1958.

WILSON, BRANCH AND BARWICK,
Rhodes Haverty Building,
Atlanta, Georgia.
(Att: Mr. John Wilcox).

DEAR JOHN: I am enclosing a list of employee earnings, which you may find helpful.

* * * * *

1530 *VIOLET EWING* #30, her discharge was in order due to the versatility of the other operator, Margaret Britt, #23, which replaced Violet Ewing's operation. In other words, there was only enough work for one of the two operators and one operator, we felt, could handle the job better, being that her own work was a more highly skiller character.

* * * * *

FRANCES JOHNSON #42 was being held to an average pay to learn a new job and, after several months, she had shown practically no improvement. Therefore, inasmuch as her job was mechanical, it was absorbed by other operators.

* * * * *

NELLIE WOOD #84, with regards to this operator, this was purely a question that a cutback had to be made in this department, due to the lack of production and the quality of her work was not equal to the standards of quality demanded on the particular job and given by the rest of the operators.

* * * * *

1531 Cordially yours,

WALTON MANUFACTURING COMPANY,
MORRIS SCHARFF.

MS:vp.

1532 In United States Court of Appeals for the Fifth Circuit

No. 18198

NATIONAL LABOR RELATIONS BOARD

v.

WALTON MANUFACTURING COMPANY AND LOGANVILLE PANTS COMPANY

Minute entry of argument and submission

October 4, 1960

On this day this cause was called and, after argument by Russell Specter, Esq., Attorney, National Labor Relations Board, for Petitioner, and Robert T. Thompson, Esq., for Respondents, was submitted to the Court.

1533 In the United States Court of Appeals for the Fifth Circuit

No. 18198

NATIONAL LABOR RELATIONS BOARD PETITIONER

v.

WALTON MANUFACTURING COMPANY AND LOGANVILLE PANTS COMPANY, RESPONDENTS

PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD, SITTING AT WASHINGTON, D.C.

Before JONES, Circuit Judge, and HOOPER and JOHNSON, District Judges

Opinion

January 6, 1961

JONES, *Circuit Judge:* The National Labor Relations Board, by this proceeding, seeks enforcement of its order [1] against the Respondents, Walton Manufacturing Company and Logan-

[1] 124 N.L.R.B. 1331.

ville Pants Company. The Board found that the Re-
1534 spondents interfered with, restrained and coerced their employees by surveillance of union activities, threatening reprisals for union adherence and interrogating employees concerning union affairs. The Board's order directs that the Respondents cease and desist from engaging in these practices. The Board found that the Respondents had discharged four employees and terminated the employment of nine others because of their union activities. The Board's order directs that employment be offered to such of these discharged and terminated employees as had not been rehired and that all of them be made whole for any loss of earnings sustained by reason of their having been discharged or having had their employment terminated. The conventional provisions for making Respondents' records available to the Board, and for the posting of notices were included in the order. The Board states that the only question for our consideration is whether there is substantial evidence on the record as a whole to support the Board's findings. This is certainly important and may be controlling.

As we must do in these "substantial evidence" cases, we have undertaken the tedious task of reading the record and reviewing the evidence; tedious because of the necessity of going from the Board's appendix to the employer's appendix, and so back and forth from one to the other, in an effort to piece together the isolated excerpts of testimony which each party has extracted for the purpose of supporting the position for which it contends. The Board incorporates into its appendix
nineteen separate quotations from the testimony of the
1535 witness, Morris Scharff, and the employer includes thirty-seven selections from the testimony of this witness. The same is also true, to a lesser degree, with respect to the testimony of twenty-five or more of the other witnesses. Our decision is to be based upon the record considered as a whole. Parts of the record, taken out of context, are not to be considered piecemeal, but we are to consider the record in its entirety and as a unit. This we have attempted to do.

The Board found that the Respondents interfered with, restrained and coerced their employees in violation of Section 8 (a)(1) of the Act.[2] The personnel matters of the Respondents were entrusted to Morris Scharff. That he was possessed of an

[2] 29 U.S.C.A. § 158(a)(1).

anti-union bias is well established, and the Respondents are not to be penalized because of his beliefs. N.L.R.B. *v.* McGahey, 5th Cir. 1956, 233 F. 2d 406. Nor will the absence of affection of the union management for Scharff, which was also demonstrated, result in any benefit to the Respondents. Morris Scharff made talks to the employees during the period when the union was attempting to organize the Respondents' plants. He related some of his unpleasant experiences with the union during the time he was operating a plant in New York. In the brief of the Board it is stated that "Scharf told the employees, in effect, that he would shut down the plant rather than deal with the union." Although some of the witnesses for the Board's General Counsel testified that Scharff had made such statements, the Examiner became satisfied that the tape recordings, providentially made, and written transcriptions of them, were "substantially accurate reproductions of what was said. * * *" The examiner concluded that the statements of Morris Scharff were, to use the phrase in the Examiner's report, "protected free speech," with the exception of the conclusion of the speech [3] in which Scharff said:

1536

"* * * remember I have no association with this Company, officially. I hope to have in the near future, but if you want a union shop, you are going to have it without me, because I have had my stomach full of unions, because I can't take orders from New York. I can't take an order to be unfair to one person or another. I will have no part of it."

Upon the above quoted statement the Examiner finds that Scharff had threatened to close the plant rather than deal with the union. Although the father and brother of Morris Scharff were officers, directors and stockholders of the Respondents, Morris Scharff himself was neither officer, director nor stockholder. We find no basis for an inference of a threat to close the plant in the statement of Scharff that if the employees have a union shop they will have it without him, and that he will have no part of it. Notwithstanding the extent to which Morris Scharff may have exercised the functions of management, or have been regarded by the employees as the boss, that which he said cannot fairly be interpreted to mean something

[3] Morris Scharff made several speeches, all from the same notes and all of substantially the same content.

so different as the meaning which the Examiner has found.

Some of the employees gave categorical testimony that
1537 Scharff's speeches did contain direct statements that he would close the plant rather than deal with the union. The Examiner concludes that this testimony was the interpretation of Scharff's quoted remarks, and the Examiner says that the employees did reasonably interpret the remarks as a threat to close the plant. If it be suggested that, instead of making reasonable interpretations, these employees merely demonstrated that they had faulty memories, and their statements as to other matters were to be regarded with suspicion, the answer to such a suggestion would be that credibility is a matter entrusted to the Examiner and the Board and they have fully credited the testimony of the employees and have found Morris Scharff unworthy of belief.

Although there was not any evidence, substantial or otherwise, to support the finding that Morris Scharff, in his talks to employee groups, threatened to close the plants, we cannot say the same with respect to other findings of interference, restraint and coercion. A letter was sent to employees outlining the Respondents' policy as to life insurance, hospital and medical insurance, paid vacations and overtime. Hope of inaugurating a pension plan was declared. The letter stated:

"We are happy that no employee has to pay dues or initiation fees to any outside union to work at these plants. You will not be forced to make payments to outsiders for the privilege

of working here. What earnings you make here are
1538 yours. No part goes to organizers." A union organizer was followed as he called upon Respondents' employees at their homes. Direct as well as veiled threats of discharge for joining the union were made by a supervisor to employees. There was interrogation by supervisors of employees as to their activity and that of others with respect to the union. The testimony as to some of these matters was controverted. The resolving of evidentiary conflicts is within the province of the Board. Some of the conduct of the Respondents which the Board has condemned might, if isolated from the other facts shown, be regarded as not being in violation of the prohibitions against interference, restraint and coercion. We cannot say that the totality of the evidence, the substantial evidence on the record as a whole fails to support the Board's finding of interference, restraint and coercion. The "cease and desist"

portion of the Board's order, modified as hereinafter provided, will be enforced.

Among other things, the Board's order provides that the Respondents shall cease and desist from:

"Discouraging membership in and activities on behalf of Amalgamated Clothing Workers of America, AFL–CIO, or in any other labor organization of its employees, by *discharging or refusing to reinstate any of its employees, or in any other manner* discriminating in regard to their hire or tenure of employment, or any other term or condition of employment." [Italics supplied.]

Since, as is hereinafter set out, it is determined that substantial evidence is lacking for the Board's findings
1539 that the Respondents discriminatorily discharged and refused to rehire employees because of their union activity, we reach the conclusion that the italicized portion of the order, as quoted above, should be omitted.

The Board's order also directed the Respondents to cease and desist from:

"Following or otherwise engaging in surveillance of union organizers, or *creating the impression of* engaging in surveillance of union meetings; threatening employees with discharge, shutdown of the plant or with other economic sanctions to discourage union affiliation or adherence; coercively or otherwise unlawfully interrogating employees regarding their union membership or activities; conditioning the reemployment of laid off employees upon a union not becoming the representative of the employees; or in any other manner interfering with, restraining or coercing employees in the exercise of the right to self-organizations, to join or assist Amalgamated Clothing Workers of America, AFL–CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act and to refrain from any and all such activities, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the Act." [Italics supplied.]
1540 If the Respondents are required to refrain from engaging in surveillance of union meetings the purpose of the Act

will be served without imposing upon them a duty to avoid creating an impression. "Impression" is an equivocal term, it is "an indistinct or indefinite notion, remembrance, belief or opinion." Paramount Film Distributing Coporation v. City of Chicago, D.C.N.D. Ill 1959, 172 F. Supp. 69. Unlawful interference may be found from inferences based on facts disclosed by evidence, but not upon impressions made upon the employees, unless made by acts or words of the employer, and then it is the acts or words that are violative of the law. The italicized words in that portion of the order last quoted above should be deleted.

During the period between December 4, 1957, and January 16, 1958, the Respondents discharged four employees, Lucille Yancey, Grace McCart, Pearl Coker, and Ruth Brooks. The Board found that they were discharged for union activity, in violation of Section 8(a) (3) and (1) of the Act. Reinstatement of those who had not been rehired, and payment of lost earnings were ordered. We are again confronted with the difficult task of determining whether the motive for the discharge of employees is a proper one or whether it was prompted by the activity of the employees on behalf of a union. Cf. N.L.R.B. v. Redwing Carriers, Inc., 5th Cir. 1960, * * * F. 2d. * * * The requirements of substantiality of evidence and reasonableness of the inferences to be drawn from the evidence are not less in a case of reinstatement and reimbursement than where
1951 a cease and desist order is directed against interference. See N.L.R.B. v. Ingram, 5th Cir. 1960, * * * F. 2d * * *; N.L.R.B. v. Tex-O-Kan Flour Mills Co., 5th Cir. 1941, 122 F. 2d 433. In the determination of whether there is substantial evidence and whether inferences are justified, a closer scrutiny of the record than might otherwise be required becomes necessary where, as here, questionable inferences have been drawn and where, as here, the Examiner has uniformly credited all of the General Counsel's evidence and generally disbelieved all of the employer's evidence. N.L.R.B. v. Miami Coca-Cola Bottling Co., 5th Cir. 1955, 222 F. 2d 341. Cf. N.L.R.B. v. Casco Products Co., 5th Cir. 1960, 280 F. 2d 905.

We are aware of the requirement that we are not to overturn the Board's findings if supported by substantial evidence on the record as a whole. We recognize the principle that the substantial evidence rule applies to the choice of inferences as well as to the finding of facts as facts. N.L.R.B. v. Birming-

ham Publishing Co., 5th Cir. 1958, 262 F. 2d 2. We do not question the settled doctrine that the Court should not, as a general proposition, disturb the action of the Examiner and the Board in crediting or discrediting the testimony of a witness. N.L.R.B. v. West Point Manufacturing Co., 5th Cir. 1957, 245 F. 2d 783; N.L.R.B. v. Newton Co., 5th Cir. 1956, 236 F. 2d 438. It is not, however, required that the Examiner's findings be given more weight than reason would dictate and, in the light of judicial experience, they deserve. Universal Camera Corporation v. N.L.R.B., 340 U.S. 474, 71 S. Ct. 456, 95 L. Ed. 456. This Court has had frequent occasion to announce and develop the doctrine that if
1542 it appears that there is substantial evidence on the record as a whole to make the inferences of legal and illegal discharge reasonably equal, we may not overturn the Board's finding of an illegal discharge. N.L.R.B. v. Dan River Mills, Inc., 5th Cir. 1960, 274 F. 2d 381, N.L.R.B. v. Fox Manufacturing Co., 5th Cir. 1956, 238 F. 2d 211; N.L.R.B. v. Newton Co., 5th Cir. 1956, 236 F. 2d 438; N.L.R.B. v. McGahey, 5th Cir. 1956, 233 F. 2d 406; N.L.R.B. v. Coats & Clark, Inc., 5th Cir. 1956 231 F. 2d 567; N.L.R.B. v. Houston Chronicle Publishing Co., 5th Cir. 1954, 211 F. 2d 848. The clarification of this rule, as stated in the Houston Chronicle case, by the opinion in Coats & Clark, has not modified the principle that an unlawful motive is not lightly to be inferred. N.L.R.B. v. Dan River Mills, Inc., supra; N.L.R.B. v. Hudson Pulp & Paper Corporation, 5th Cir. 1960, 273 F. 2d 660; N.L.R.B. v. Fox Manufacturing Co., supra.

The burden of proof rests upon the Board's General Counsel to establish by acceptable substantial evidence on the record as a whole that discharges came from the forbidden motive of interference in the exercise of the statutory rights of the employees. N.L.R.B. v. Winter Garden Citrus Products Cooperative, 5th Cir. 1958, 260 F. 2d 913, and cases there cited. See also N.L.R.B. v. Birmingham Publishing Co., supra, and cases there cited, and N.L.R.B. v. Redwing Carriers, Inc., supra. Whenever the General Counsel's burden is not carried, and whenever the inferences of fact are not reasonably permitted by the substantial evidence, it is the duty of the reviewing court to displace the Board's finding of unlawful motive.

1543 There was much evidence for the Respondents that the work of the discharged employees was unsatisfactory and that this was the sole reason for the discharges. Much of this testimony, of course, was from management, but like testimony was given by other employees and, it may be said, by the testimony in some instances of the discharged employees with respect to their own work. The first of the four employees to be discharged was Lucille Yancey whose employment was terminated on December 4, 1957. We are informed by the Board's brief that she "joined the union about ten days before her discharge and immediately became very active in its affairs." Her activity consisted of her receiving several visits from union organizers and promising to give the union a list of employees' names. It is not shown that this promise was kept. She did no soliciting of members for the union. She testified, and reiterated her testimony, that no union meetings were held until after her discharge. Since a union meeting was, in fact, held on the day before she was discharged, her testimony indicates both a lack of knowledge of the activities of the union and a lack of interest in such activities. She attended two meetings after she was discharged. The Board, in its brief, tells us that Mrs. Yancey told Morris Scharff, on the day of her discharge or the following day, that she would "abandon her union activities if she could return to her job." What she said she told Scharff was that if he would give her back her job, "I won't vote for the union." At this interview Mrs. Yancey told Scharff that she had not been helping organize the plant. None of her superiors ever discussed the union with her while she was an employee. She
1544 quoted Scharff as telling her that he did not know whether she had signed a union card. It seems apparent that in the preparation of the Board's brief ardor has outrun accuracy.

Mrs. Yancey testified as to her skill as an operator and of the compliments she had received for her excellent work. The superintendent, I. S. Prosperman, the supervisor, Grace Higgins, and several of Respondents' employees testified otherwise. Of this testimony, the Examiner and the Board discredited, for the most part, that which was favorable to the Respondents and credited that which was unfavorable to them. It was pretty clear, though, that Mrs. Yancey had considerable trouble in sewing in the linings of coats. The

Examiner was persuaded that this was not due to any lack of ability on the part of Mrs. Yancey, but rather to the skimpy cut of the linings. Mrs. Yancey admitted making the request for the linings to be cut longer, but only for the purpose of making it easier on her. Proper and satisfactory garments, she said, were being made with the linings as furnished. There was evidence, credible and credited, that Mrs. Yancey's work was not in all respects satisfactory. Applicable here are the following principles:

"The Act does not interfere with the normal exercise of the right of the employer to select its employees or to discharge them. The employer may not, under cover of that right, intimidate or coerce its employees with respect to their self-organization and representation, and on the other hand, the Board is not entitled to make its authority a pretext
1545 for interference with the right of discharge when that right is exercised for other reasons than such intimidation and coercion." N.L.R.B. v. Jones & Laughlin Steel Corporation, 301 U.S. 1, 57 S. Ct. 615, 81 L. Ed. 893, 108 A.L.R. 1352. See N.L.R.B. v. McGahey, supra.

The Examiner has found that the Respondents knew or believed that Mrs. Yancey was a strong union adherent. The Board, in its brief, urges that "In view of respondents' demonstrated hostility to the union, and its surveillance of union activities, there was ample basis for the Board to find * * * that Yancey was known or believed by respondents to be an active union adherent, and that this was the reason for her discharge." The difficulty with the Board's position is that the evidence which the Examiner has credited, as well as that which he has discredited, shows that Mrs. Yancey was not at all active in her union adherence and no evidence, whether or not credited, tends to show otherwise. The visits of union organizers to Mrs. Yancey's home do not support a finding of union activity on her part. Nor does the anti-union feeling of the Respondents so change the character of the evidence as to require or permit the inference of wrongful discharge which the Examiner and the Board draw. The opposition of an employer to union organization, and restraint, coercion and interference are not enough to make the discharge of an employee a wrongful one. N.L.R.B. v. Hudson Pulp & Paper Corporation, supra; N.L.R.B v. McGahey, supra. Anti-union bias, while a factor in evaluating tes-

timony, does not supply the element of purpose.
1546 That element must be established with respect to each discharge. N.L.R.B. v. Dan River Mills, Inc., supra. The finding that Mrs. Yancey was discharged because of union activity was, it appears, based upon suspicion and conjecture. Such a finding, so based, cannot be sustained. N.L.R.B. v. Drennon Food Products Co., 5th Cir. 1959, 272 F. 2d 23; N.L.R.B. v. Cosco Products Co., supra. We have the firm conviction that there is not substantial evidence on the record as a whole that the discharge of Mrs. Yancey was wrongful.

We reach the same conclusion with respect to Grace McCart, Pearl Coker and Ruth Brooks as in the case of Mrs. Yancey. As to Mrs. McCart the evidence shows she attended a union meeting. There is no other evidence of union activity on her part. There was evidence of poor workmanship on her part. The conclusion is reached that because Morris Scharff was quoted as threatening to fire known union adherents, and because Scharff had asked her who attended the meeting, the discharge was the result of union activity. There was no firing of all union adherents, and the discussion between Mrs. McCart and Morris Scharff was initiated by her. She asserted that she was discharged because of union membership, a self-serving opinion which the Examiner and the Board accepted as fact. The Examiner stressed the fact that Mrs. McCart was rehired about a year later and then did satisfactory work, and from this fact draws the inference that she must have been doing satisfactory work before. While the doing of satisfactory work after the rehiring may justify an inference of an ability to do good work before being
1547 discharged, it does not demonstrate that she had done good work before being discharged.

Of the same pattern as Mrs. McCart were the discharges of Pearl Coker and Ruth Brooks. As with Mrs. Yancey, the Board's counsel says that the Board's finding of unlawful discharge of Pearl Coker is justified "in view of respondents' unconcealed animosity toward the union." That she was a sub-marginal producer is shown by her own testimony. Like Mrs. McCart, Pearl Coker was later rehired and from this the inference is again drawn that the work of the discharged employee must have been previously satisfactory. In the case of Ruth Brooks, from her own testimony, it appeared that

she was unable to make production and had told Morris Scharff that she was not satisfied with her operation. She quoted him as saying that he also was not satisfied. As in the case of Mrs. Yancey, we conclude that there is not substantial evidence on the record as a whole to sustain the findings that the discharges of Grace McCart, Pearl Coker and Ruth Brooks were wrongful.

On January 18, 1958, the union sent to the Respondents a letter listing twelve employees who were therein said to be members of the union and serving on the organizing committee, and that these employees had "been fully advised of their rights under the National Labor Relations Act," and that they were "protected in their rights to join and assist the union by Sec. 8, A(3) of the National Labor Relations Act as amended." On January 24, 1958, there was a lay-off of a number of the Respondents' employees. The
1548 lay-off resulted from a decline in business which necessitated a cutback in production. Included among those who were laid off were nine of those listed in the letter of the union to the Respondents. The Examiner and the Board found that the nine had been laid off because of their union activity. Those in charge of the Respondents' management testified as to the method used in the selection of those who were to be laid off. This testimony was plausible and, on the whole, consistent. It was largely uncontradicted. It would not have been found, we think, that the General Counsel had sustained the burden of proof as to discrimination but for the letter of the union and the fact that Morris Scharff had asked those who were named if the use of their names had been authorized.

It may be that in the absence of the letter from the union, the Respondents would have been guilty of interference if they had questioned employees regarding their union membership and activities, although this is not certain and is not before us for decision. Where, however, the union has notified the employer of the activity for the union of certain of the employees, no interference results from an inquiry as to the correctness of the union statement. Cf. N.L.R.B. v. Montgomery Ward & Co., 2nd Cir. 1951, 192 F. 2d 160; Sax v. N.L.R.B., 7th Cir. 1948, 171 F. 2d 769. It is well settled that an employee may not be discharged because of union activity. It is also true that union membership and union activity

do not insulate an employee from being discharged where an unlawful motive has not been shown. N.L.R.B. v. Ingram, supra; N.L.R.B. v. Hudson Pulp & Paper Corporation, supra; N.L.R.B. v. Raymond Pearson, Inc., 5th Cir. 1957, 243 F. 2d 456; N.L.R.B. v. Newton Company, supra; N.L.R.B. v. Huber & Huber Motor Express, 5th Cir. 1955, 223 F. 2d 748; N.L.R.B. v. Williamson-Dickie Mfg. Co., 5th Cir. 1942, 130 F. 2d 260; N.L.R.B. v. Tex-O-Kan Mills Co., supra.

Evidence is admissible in a proceeding to determine whether or not there has been anti-union discrimination in a lay-off of the percentage of union adherents involved. N.L.R.B. v. Newton Co., supra. N.L.R.B. v. Nabors, 5th Cir. 1952, 196 F. 2d 272, cert. den. 344 U.S. 865, 73 S. Ct. 106, 97 L. Ed. 671. There is no finding as to the percentage of union adherents retained or laid off. There is no finding as to the extent of the activity for union organization of union members laid off as compared with those retained. There is a finding that nine were laid off out of the twelve designated by the union in its caveat served upon the company. The fact that the Respondents disregarded the obvious effort of the union to prevent the discharge of those designated by it is of little weight in drawing an inference of a discriminatory discharge.

The selection of the employees to be laid off had been determined before the union's warning had been delivered, if the witnesses for the Respondents are to be believed. They were not believed by the Examiner or the Board. The Respondents' management assigned plausible and reasonable grounds for the selection of each of those who were laid off. The factual basis for the selections as given by the Respondents' witnesses were largely uncontradicted. The Examiner, however, and the Board, rejected the reasons asserted by the
1550 Respondents and found the motive for the selection of the nine committeemen was their union membership. In so doing, the Board placed its own evaluations upon the factual situations, assumed managerial prerogatives, and reached the conclusions that good business judgment would not have justified the Respondents in their selections for lay-offs and therefore, says the Board, the motive was the unlawful one.

In the frequently quoted opinion of N.L.R.B. v. Tex-O-Kan Flour Mills Co., supra, it was said:

"In each such case such membership may have been the cause [of discharge or lay-off], for the union was not welcomed by the persons having authority to discharge and employ. If no other reason is apparent, union membership may logically be inferred. Even though the discharger disavows it under oath, if he can assign no other credible motive or cause, he need not be believed. But it remains true that the discharger knows the real cause of discharge, it is a fact to which he may swear. If he says it was not union membership or activity, but something else which in fact existed as a ground, his oath cannot be disregarded because of suspicion that he may be lying. There must be impeachment of him, or substantial contradiction, or if circumstances raise doubts, they must be inconsistent with the positive sworn testimony on the exact point." 122 F. 2d 433, 438–439. See N.L.R.B. v. Cosco Products Co., supra.

The Board has, in this case, been so obsessed with and fixed upon the anti-union attitude of the Repond-
1551 ents that it has rejected all other considerations for the questioned discharges and lay-offs. It is appropriate to say here, as was said in the McGahey case:

"But as we have so often said: management is for management. Neither Board nor Court can second-guess it or give it gentle guidance by over-the-shoulder supervision." *N.L.R.B. v. McGahey, supra.*

We reach the conclusion that the Board's General Counsel has failed to carry the burden of showing by substantial evidence on the record as a whole that the lay-offs were discriminatory, and therefore the portion of the Board's order directing reinstatement of the specified nine employees who were laid off will not be enforced.

The petition for enforcement will be granted in part, modified as herein provided, and denied in part.

ENFORCED IN PART; DENIED IN PART.

1552 In United States Court of Appeals
for the Fifth Circuit

No. 18198

NATIONAL LABOR RELATIONS BOARD

v.

WALTON MANUFACTURING COMPANY AND
LOGANVILLE PANTS COMPANY

JUDGMENT

January 6, 1961

This cause came on to be heard on the petition of the National Labor Relations Board for enforcement of an order of the National Labor Relations Board made on October 21, 1959, in the proceedings known upon the records of the Board as Case Nos. 10-CA-3127, 3201, 3219, 3202 and 3218, and was argued by counsel;

On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the petition for enforcement in this cause be, and the same is hereby, granted in part and denied in part and modified in accordance with the opinion of this Court.

1553 In the United States Court of Appeals for the Fifth Circuit

No. 18198

[File endorsement omitted.]
[Title omitted.]

Motion for extension of time to file a petition for rehearing

Filed January 27, 1961

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT:

The National Labor Relations Board, by its Assistant General Counsel, moves that the time for filing its petition for rehearing in the above cause be extended from January 27, 1961, up to and including February 13, 1961.

In support of its motion the Board respectfully shows as follows:

1. The many issues and unusually lengthy record in this case makes it impossible to prepare an adequate statement of the Board's position on petition for rehearing in the time provided for in the Court's rules.

2. An unusual press of Board litigation in this and other Courts of Appeals has consumed a significant portion of the time of the attorney to whom this case is assigned, adding to the difficulties of preparing the Board's petition prior to the present due date.

WHEREFORE, the Board respectfully moves that its motion be granted.

(S) MARCEL MALLET PREVOST,
Assistant General Counsel,
National Labor Relations Board.

Dated at Washington, D.C., this 25th day of January, 1961.

1554 In the United States Court of Appeals for the Fifth Circuit

No. 18,198

[Title omitted.]

PETITION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD, SITTING AT WASHINGTON, D.C.

Order extending time to file petition for rehearing

January 31, 1961

ORDER:

It is ordered that the time for filing a petition for rehearing in the above entitled and numbered cause be extended to and including February 13, 1961.

(s) WARREN L. JONES,
United States Circuit Judge.

JANUARY 31, 1961.

1555 In United States Court of Appeals

Law Offices

WILSON, BRANCH AND BARWICK

RHODES-HAVERTY BUILDING,
Atlanta 3, Georgia, January 27, 1961.

Letter of Counsel objecting to Board's proposed decree and enclosing proposed decree

Filed January 30, 1961

Re: Case Number 18198, N.L.R.B. v. Walton Manufacturing Company and Loganville Pants Company

Mr. EDWARD W. WADSWORTH,
Clerk, United States Court of Appeals, Fifth Circuit,
New Orleans 6, Louisiana.

[File endorsement omitted.]

DEAR MR. WADSWORTH: We are enclosing seven mimeographed copies of the proposed Decree in the above-entitled matter, as prepared by the Respondents. We will appreciate your bringing the enclosures to the attention of the Court.

We received the proposed Decree as prepared by the National Labor Relations Board. However, even though the Decree conforms in some respects to the decision of the Court, we do not believe that the Decree proposed by the Board is accurate in its entirety. Therefore, we, as attorneys for the Respondents, have prepared a proposed Decree which we feel conforms with the Court's decision.

In preparing the Respondents' proposed Decree we have omitted the following language from the Decree proposed by the Board. In paragraph number 1(a) of the proposed Decree we have omitted the following words: "engaging in surveillance of union meetings"; "shutdown of the plant", and "conditioning the reemployment of laid off employees upon a union not becoming the representative of the employees".

In the "Notice To All Employees", which is attached to the proposed Decree, we have omitted the words "shutdown of the plant" from the second paragraph of the Notice. We have also omitted paragraph number 5 from the Notice, which reads

as follows: "WE WILL NOT condition the reemployment of laid off employees upon a union not becoming the representative of our employees."

It is the Respondents' position that no finding or language made by the Court in its decision requires the inclusion of the words "engaging in surveillance of union meetings" in the proposed Decree. Likewise, the Court stated on page 4 of its decision that: "We find no basis for an inference of a threat to close the plant * * *" Upon the strength of this portion of the Court's decision, the Respondents contend that the words "shutdown of the plant" should be omitted from the Court's decree. We are also unable to find any supporting language, finding or conclusion of the Court which would warrant the inclusion of the following words in the Court's decree: "conditioning the reemployment of laid off employees upon a union not becoming the representative of the employees."

1556

We will appreciate your submitting this letter and its enclosures to the Court for its consideration.

With kindest regards, we are

Sincerely,

WILSON, BRANCH AND BARWICK,
By Robert T. Thompson,
ROBERT T. THOMPSON,

RTT/em.
Enclosures:
cc: Mr. Marcel Mallet Prevost, Mr. Walter C. Phillips.

1557 United States Court of Appeals for the Fifth Circuit

No. 18198

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

WALTON MANUFACTURING COMPANY AND LOGANVILLE PANTS COMPANY, RESPONDENTS

DECREE ENFORCING IN PART AND DENYING IN PART AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

Before JONES, Circuit Judge, and HOOPER and JOHNSON, District Judges

Respondent's proposed decree—not entered by the Court

This cause came on to be heard upon a petition of the National Labor Relations Board for the enforcement of an order issued by it on October 21, 1959, against the above-named Respondents, their officers, agents, successors and assigns. The Court heard argument of respective counsel on October 4, 1960, and has considered the briefs and transcript of record filed in this cause. On January 6, 1961, the Court being fully advised in the premises, handed down its decision enforcing in part and denying in part, the Board's said order. In conformity therewith,

It Is Hereby Ordered, Adjudged, and Decreed, that the Respondents, Walton Manufacturing Company and Loganville Pants Company, their officers, agents, successors, and assigns, shall jointly and severally:

1. Cease and desist from:

(a) Discouraging membership in and activities on behalf of Amalgamated Clothing Workers of America, AFL–CIO, or in any other labor organization of its employees, by following or otherwise engaging in surveillance of union organizers; threatening employees with discharge, or with economic sanc-
1558 tions to discourage union affiliation or adherence; coercively or otherwise unlawfully interrogating any employees regarding their union membership or activities; or in any other manner interfering with, restraining or coercing employees in the exercise of the right to self-organization, to join

or assist Amalgamated Clothing Works of America, AFL–CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act and to refrain from any and all such activities, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, hereinafter called the Act.

2. Take the following affirmative action which the Board has found will effectuate the policies of the Act:

(a) Post at their plant or plants in Loganville, Georgia, copies of the notice attached hereto and marked Appendix. Copies of said notice to be furnished by the Regional Director for the Tenth Region, Atlanta, Georgia, shall, after being duly signed by Respondents, be posted immediately upon receipt thereof and be maintained by them for sixty (60) consecutive days thereafter in conspicuous places where notices to employees are customarily posted. Respondents shall take reasonable steps to insure that such notices are not altered, defaced, or covered by any other material;

(b) Notify the aforesaid Regional Director in writing within ten (10) days from the date of this Decree what steps the Respondents have taken to comply herewith.

Entered:

1559

APPENDIX

Notice to All Employees

pursuant to

A Decree of the United States Court of Appeals enforcing in part and denying in part an order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We Will Not discourage membership in or activities on behalf of Amalgamated Clothing Workers of America, AFL–CIO, or any other labor organization.

We Will Not threaten our employees with discharge, or with any other economic sanction to discourage them from

joining or assisting labor organizations or engaging in other concerted activities for mutual aid or protection.

WE WILL NOT follow or otherwise engage in surveillance of union organizers or agents.

WE WILL NOT coercively or otherwise unlawfully interrogate our employees regarding their union membership or activities.

WE WILL NOT in any other manner interfere with, restrain or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act.

All our employees are free to become or remain or to refrain from becoming or remaining members of AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO, or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the Act.

WALTON MANUFACTURING COMPANY.
(Employer)

By .....
(Representative) (Title)

Dated.....

LOGANVILLE PANTS COMPANY,
(Employer)

By .....
(Representative) (Title)

Dated.....

This notice must remain posted for sixty (60) days from the date hereof and must not be altered, defaced, or covered by any other material.

1560 CERTIFICATE OF SERVICE

I, ROBERT T. THOMPSON, of Counsel for the Respondents in the within and foregoing matter, do hereby certify that a copy of the within and foregoing Decree and Notice To All Employees has been duly served upon the following persons by depositing in the United States Mail a copy of same, properly addressed, postage prepaid:

Mr. Marcel Mallet-Prevost
Assistant General Counsel
National Labor Relations Board
Washington 25, D.C.

Mr. Walter C. Phillips
Regional Director
Tenth Region
National Labor Relations Board
528 Peachtree—Seventh Building
Atlanta 23, Georgia

This the 27th day of January, 1961.

ROBERT T. THOMPSON.

1561 In United States Court of Appeals

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON 25, D.C., *February 3, 1961.*

Letter of Counsel for the Board in Reply to Counsel for Petitioner's Letter

Filed Rebruary 6, 1961

Re: No. 18198—N.L.R.B. v. Walton Mfg. Co., & Loganville Pants Co. (C.A. 5) Board Case No. 10-CA-3127

EDWARD W. WADSWORTH, Esquire,
Clerk, United States Court of Appeals for the Fifth Circuit,
New Orleans 6, Louisiana.

DEAR MR. WADSWORTH: This has reference to the letter addressed to you by respondents' attorney under date of January

27, 1961, in which he suggests certain changes in the proposed decree submitted by the Board in this matter. The decree which we submitted conforms to the language set forth in the Court's opinion (pp. 6–7, sl. op.) in which the Court ordered the deletion of specific italicized phrases. The decree proposed by respondents suggests the deletion of additional language beyond that set forth in the opinion. Accordingly, we do not agree that the opinion calls for the modifications of the Board's order proposed by respondents, and we do not consent to the proposed decree that they have submitted.

Very truly yours,

STUART ROTHMAN,
General Counsel.

By Marcel Mallet-Prevost,
MARCEL MALLET-PREVOST,
Assistant General Counsel.

cc: Wilson, Branch & Barwick, Attn.: Robert T. Thompson, Esquire, 615 Rhodes-Haverty Building, Atlanta 3, Georgia
NLRB Region 10

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON 25, D.C., *February 7, 1961.*

Letter of Counsel for the Board That No Petition for Rehearing Will Be Filed

Filed February 8, 1961

Re: No. 18198—N.L.R.B. v. Walton Mfg. Co., and Loganville Pants Co. (C.A. 5) Board Case No. 10–CA–3127

EDWARD W. WADSWORTH, Esquire,
Clerk, United States Court of Appeals for the Fifth Circuit, New Orleans 6, Louisiana.

[File endorsement omitted.]

DEAR MR. WADSWORTH: Upon further consideration the Board has decided not to petition for rehearing in the above case.

Very truly yours,

STUART ROTHMAN,
General Counsel.
By MARCEL MALLET-PREVOST,
Assistant General Counsel.

cc: Wilson, Branch & Berwick, Att.: Robert T. Thompson, Esquire, 615 Rhodes-Haverty Building, Atlanta 3, Georgia.
NLRB Region 10.
Manoli; Inf. Files.
Colbert.
Brown.
Specter.
Lit. Ser.

1563 In United States Court of Appeals
for the Fifth Circuit

No. 18198

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

WALTON MANUFACTURING COMPANY AND LONGANVILLE PANTS COMPANY, RESPONDENTS

Decree enforcing in part and denying in part an order of the National Labor Relations Board

Filed February 16, 1961

Before JONES, Circuit Judge, and HOOPER and JOHNSON, District Judges

BY THE COURT:

This cause came on to be heard upon a petition of the National Labor Relations Board for the enforcement of an order issued by it on October 21, 1959 against the above-named respondents, their officers, agents, successors and assigns. The Court heard argument of respective counsel on October 4, 1960 and has considered the briefs and transcript of record filed in this cause. On January 6, 1961, the Court being fully advised in the premises, handed down its decision enforcing in part and denying in part, the Board's said order. In conformity therewith,

It Is Hereby Ordered, Adjudged, and Decreed, that the Respondents, Walton Manufacturing Company and Loganville Pants Company, their officers, agents, successors, and assigns, shall jointly and severally:

1. Cease and desist from:

(a) Discouraging membership in and activities on behalf of Amalgamated Clothing Workers of America, AFL–CIO, or in any other labor organization of its employees, by following or otherwise engaging in surveillance of union organizers, engaging in surveillance of union meetings; threatening employees with discharge, shutdown of the plant or with other economic sanctions to discourage union affiliation or adherence; coercively or otherwise unlawfully interrogating employees regarding their union membership or activities; conditioning the reemployment of laid off employees upon a union not becoming

the representative of the employees; or in any other manner interfering with, restraining or coercing employees in
1564 the exercise of the right to self-organization, to join or assist Amalgamated Clothing Workers of America, AFL–CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the Act and to refrain from any and all such activities, except to the extent that such rights may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, hereinafter called the Act.

2. Take the following affirmative action which the Board has found will effectuate the policies of the Act:

(a) Post at their plant or plants in Loganville, Georgia, copies of the notice attached hereto and marked Appendix. Copies of said notice to be furnished by the Regional Director for the Tenth Region, Atlanta, Georgia, shall, after being duly signed by Respondents, be posted immediately upon receipt thereof and be maintained by them for sixty (60) consecutive days thereafter in conspicuous places where notices to employees are customarily posted. Respondents shall take reasonable steps to insure that such notices are not altered, defaced, or covered by an other material;

(b) Notify the aforesaid Regional Director in writing within ten (10) days from the date of this Decree what steps the Respondents have taken to comply herewith:

Entered:

1565 APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A Decree of the United States Court of Appeals enforcing in part and denying in part an order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT discourage membership in or activities on behalf of AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO or any other labor organization.

WE WILL NOT threaten our employees with discharge, shutdown of the plant, or with any other economic sanction to discourage them from joining or assisting labor organizations or engaging in other concerted activities for mutual aid or protection.

WE WILL NOT follow or otherwise engage in surveillance of union organizers or agents.

WE WILL NOT coercively or otherwise unlawfully interrogate our employees regarding their union membership or activities.

WE WILL NOT condition the reemployment of laid off employees upon a union not becoming the representative of our employees.

WE WILL NOT in any other manner interfere with, restrain or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the Act.

All our employees are free to become or remain or to refrain from becoming or remaining members of AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL–CIO, or any other labor organization, except to the extent that this right may be affected by an agreement in conformity with Section 8(a)(3) of the Act.

WALTON MANUFACTURING COMPANY
(Employer)

Dated ..... By .....
(Representative) (Title)

LOGANVILLE PANTS COMPANY,
(Employer)

Dated ..... By .....
(Representative) (Title)

This notice must remain posted for sixty (60) days from the date hereof and must not be altered, defaced, or covered by any other material.

1566 [Clerk's certificate to foregoing transcript omitted in printing.]

1567 Supreme Court of the United States

No. 77, October Term, 1961

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

WALTON MANUFACTURING COMPANY, ET AL.

Order allowing certiorari.

October 9, 1961

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit is granted, and the case is transferred to the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

U.S. GOVERNMENT PRINTING OFFICE 1961 O—620289